

# ZONING TABLE OF CONTENTS

PREAMBLE.....		xi
ARTICLE 1 TITLE, PURPOSES, AND LEGAL CLAUSES.....		1-1
Section 101 SHORT TITLE.....		1-1
102 REPEAL AND SAVINGS CLAUSE.....		1-1
103 ZONING MAP.....		1-1
104 VALIDITY AND SEVERALTY CLAUSE.....		1-1
105 CONFLICT WITH OTHER PROVISIONS OF THIS ORDINANCE, WITH OTHER LAWS OR ORDINANCES, OR OTHER PRIVATE RESTRICTIONS OR COVENANTS.....		1-2
106 PERIOD OF EFFECTIVENESS.....		1-2
107 EFFECTIVE DATE: PUBLICATION.....		1-2
ARTICLE 2 ADMINISTRATION AND ENFORCEMENT .....		2-1
Section 201 ADMINISTRATION.....		2-1
202 DUTIES OF ZONING ADMINISTRATOR.....		2-1
203 ZONING PERMITS REQUIRED; EXCEPTIONS.....		2-1
204 REQUIRED COMPLIANCE WITH THIS ORDINANCE.....		2-2
205 PERMITS – VOIDABLE.....		2-2
206 ZONING FEES, CHARGES, AND EXPENSES.....		2-3
207 VIOLATIONS - NUISANCES PER SE.....		2-3
208 CRIMINAL PENALTIES AND CIVIL RELIEF.....		2-3
209 ENFORCEMENT OF ZONING BY CORRECTIVE ACTION AND LIEN.....		2-4
210 PERFORMANCE GUARANTY.....		2-4
ARTICLE 3 ZONING BOARD OF APPEALS.....		3-1
Section 301 ZONING BOARD OF APPEALS ESTABLISHED.....		3-1
302 MEMBERSHIP.....		3-1
303 MEETINGS; POWERS AND DUTIES OF CHAIRPERSON; RECORDS.....		3-1
304 DUTIES; RULES; HEARING AND DECISION OF APPEALS; RIGHT TO AND GROUNDS FOR APPEALS.....		3-1
305 TIME TO APPEAL AND NOTICE OF APPEAL; TRANSMISSION OF RECORD.....		3-2
306 STAY OF PROCEEDINGS PENDING APPEAL.....		3-2
307 AUTHORITY TO GRANT VARIANCES.....		3-3
308 CONDITIONS UPON WHICH VARIANCES MAY BE GRANTED; PROCEDURES AND HEARINGS.....		3-3

309	CONDITIONAL GRANT OF VARIANCES.....	3-4
310	PERFORMANCE GUARANTY.....	3-4
311	ABANDONMENT AND TERMINATION OF VARIANCES.....	3-4
312	DECISION OF THE ZONING BOARD OF APPEALS; APPEALS TO THE CIRCUIT COURT .....	3-5

ARTICLE 4 CONSTRUCTION OF LANGUAGE AND DEFINITIONS .....		4-1
Section 401	WORD USAGE RULES.....	4-1
402	DEFINITIONS.....	4-1

ARTICLE 5 GENERAL PROVISIONS REGARDING ESTABLISHMENT OF ZONING DISTRICTS AND THE OFFICIAL ZONING MAP.....		5-1
Section 501	ESTABLISHING OF ZONING DISTRICTS.....	5-1
502	PROVISION FOR OFFICIAL ZONING MAP.....	5-1
503	AUTHORITY OF OFFICIAL ZONING MAP.....	5-1
504	REPLACEMENT OF OFFICIAL ZONING MAP.....	5-2
505	INTERPRETATION AND LOCATION OF ZONING DISTRICTS AND BOUNDARIES ON OFFICIAL ZONING MAP.....	5-2

ARTICLE 6 "A" LOW DENSITY RESIDENTIAL ZONE.....		6-1
Section 601	PURPOSE.....	6-1
602	PERMITTED USES.....	6-1
603	SPECIAL USES.....	6-1
604	LOT REQUIREMENTS.....	6-1
605	STRUCTURE REQUIREMENTS.....	6-2

ARTICLE 7 "AA" HIGHER DENSITY RESIDENTIAL ZONE.....		7-1
Section 701	PURPOSE.....	7-1
702	PERMITTED USES.....	7-1
703	SPECIAL USES.....	7-1
704	LOT REQUIREMENTS.....	7-1
705	STRUCTURE REQUIREMENTS.....	7-2

ARTICLE 8 "AM" MOBILE HOME RESIDENTIAL ZONE  
Code follows state Manufactured Housing Ordinance

ARTICLE 9 "F" SMALL FARM ZONE .....		9-1
Section 901	PURPOSE.....	9-1
902	PERMITTED USES.....	9-1
903	SPECIAL USES.....	9-1
904	LOT REQUIREMENTS .....	9-2

		ii
905	STRUCTURE REQUIREMENTS.....	9-2

ARTICLE 10 "B" BUSINESS ZONE .....	10-1
Section 1001 PURPOSE.....	10-1
1002 PERMITTED USES.....	10-1
1003 SPECIAL USES .....	10-2
1004 LOT REQUIREMENTS.....	10-3
1005 STRUCTURE REQUIREMENTS.....	10-3
1006 OTHER REQUIREMENTS.....	10-3
 ARTICLE 11 "M" LIMITED INDUSTRIAL ZONE.....	11-1
Section 1101 PURPOSE.....	11-1
1102 PERMITTED USES.....	11-1
1103 SPECIAL USES.....	11-2
1104 LOT REQUIREMENTS.....	11-3
1105 STRUCTURE REQUIREMENTS.....	11-3
1106 OTHER REQUIREMENTS.....	11-4
 ARTICLE 12 "FR" FORESTRY RECREATIONAL ZONE.....	12-1
Section 1201 PURPOSE.....	12-1
1202 PERMITTED USES.....	12-1
1203 SPECIAL USES.....	12-2
1204 LOT REQUIREMENTS.....	12-3
1205 STRUCTURE REQUIREMENTS.....	12-4
 ARTICLE 13 "OC" OPEN SPACE AND WATERBODY CONSERVATION ZONE.....	13-1
Section 1301 PURPOSE.....	13-1
1302 PERMITTED USES.....	13-1
1303 SPECIAL USES.....	13-2
1304 LOT REQUIREMENTS.....	13-2
1305 STRUCTURE REQUIREMENTS.....	13-3
 ARTICLE 14 LAND DIVISION.....	14-1
Section 1401 PURPOSE.....	14-1
1402 DEFINITIONS.....	14-1
1403 DIVISION OF PLATTED LOTS.....	14-2
1404 DIVISION OF UNPLATTED LAND.....	14-2
1405 LOT WIDTH TO DEPTH RATIO.....	14-5
1406 SITE CONDOMINIUMS.....	14-5
1407 COMMON AREAS AND UNDERGROUND UTILITIES.....	14-6
 ARTICLE 15 PLANNED UNIT DEVELOPMENTS .....	15-1
Section 1501 PURPOSE.....	15-1
1502 DEFINITIONS.....	15-1
 1503 PUDs – PLANNED UNIT DEVELOPMENTS .....	15-1
1504 QUALIFYING CONDITIONS.....	15-2

	1505 PUD DESIGN CONSIDERATIONS.....	15-4
	1506 APPLICATION AND PROCESSING PROCEDURES.....	15-5
	1507 STANDARDS FOR PUD FINAL SITE DEVELOPMENT PLAN APPROVAL.....	15-7
	1508 PUD CONDITIONS AND SAFEGUARDS.....	15-7
	1509 PERFORMANCE GUARANTY.....	15-8
	1510 COMMENCEMENT OF CONSTRUCTION.....	15-9
ARTICLE 16	SITE PLAN REVIEW.....	16-1
Section	1601 PURPOSE.....	16-1
	1602 SITE PLAN REVIEW AND APPROVAL; WHEN REQUIRED.....	16-1
	1603 EXCEPTIONS TO MANDATORY SITE PLAN REVIEW AND APPROVAL.....	16-1
	1604 APPLICATION PROCEDURE.....	16-2
	1605 ACTION ON APPLICATION AND PLANS.....	16-3
	1606 STANDARDS FOR SITE PLAN APPROVAL.....	16-4
	1607 MODIFICATION OF APPROVED SITE PLAN.....	16-5
	1608 PERFORMANCE GUARANTY.....	16-5
	1609 CONFORMITY TO APPROVED SITE PLAN.....	16-5
	1610 DECISION OF THE PLANNING COMMISSION; APPEALS.....	16-6
ARTICLE 17	SPECIAL USES.....	17-1
Section	1701 PURPOSE.....	17-1
	1702 APPLICATION PROCEDURE.....	17-1
	1703 NOTICE OF PUBLIC HEARING, REVIEW, FINDINGS, AND ISSUANCE OF SPECIAL USE PERMITS.....	17-2
	1704 GENERAL STANDARDS FOR MAKING DETERMINATIONS.....	17-2
	1705 CONDITIONS AND SAFEGUARDS.....	17-3
	1706 PERFORMANCE GUARANTY.....	17-4
	1707 TERMINATION OF SPECIAL USE PERMIT.....	17-4
	1708 DECISION OF THE PLANNING COMMISSION; APPEALS.....	17-5
ARTICLE 18	SPECIFIC CONDITIONS AND REQUIREMENTS FOR SPECIFIED SPECIAL USES.....	18-1
Section	1801 PURPOSE .....	18-1
	1802 GASOLINE SERVICE STATIONS.....	18-1
	1803 NATURAL RESOURCES.....	18-2
	1804 CAMPGROUNDS.....	18-6
	1805 ESSENTIAL SERVICES.....	18-8
	1806 TWO FAMILY AND MULTIPLE FAMILY UNITS.....	18-8
	1807 COUNTRY CLUBS, GOLF COURSES, RIDING STABLES, ATHLETIC GROUNDS AND PARKS.....	18-9

1808	COMMERCIAL GREENHOUSES AND NURSERIES.....	18-9
1809	CHILD DAY CARE HOMES AND FACILITIES.....	18-10
1810	FUNERAL HOMES.....	18-10
1811	HOTELS AND MOTELS.....	18-10
1812	THEATERS OR SIMILAR PLACES OF PUBLIC ASSEMBLY.....	18-11
1813	RESTAURANTS WITH DRIVE-THROUGH FACILITIES.....	18-11
1814	VEHICLE WASH ESTABLISHMENTS.....	18-11
1815	OPEN AIR BUSINESSES.....	18-12
1816	BOWLING ALLEYS.....	18-13
1817	COMMERCIAL GARAGES AND AUTOMOTIVE REPAIR FACILITIES.....	18-13
1818	LUMBER AND PLANING MILLS AND SAWMILLS.....	18-13
1819	METAL PLATING, BUFFING AND POLISHING.....	18-14
1820	COMMERCIAL STORAGE WAREHOUSES.....	18-14
1821	STAMPING OR PUNCH PRESS OPERATIONS.....	18-15
1822	ESSENTIAL SERVICES STRUCTURES.....	18-15
<b>ARTICLE 19 NONCONFORMING STRUCTURES AND USES .....</b>		<b>19-1</b>
Section	1901 PURPOSE.....	19-1
	1902 DEFINITIONS.....	19-1
	1903 CONTINUATION OF NONCONFORMING STRUCTURES AND USES.....	19-1
	1904 EXTENSIONS OR CHANGES IN THE NONCONFORMITY.....	19-1
	1905 ABANDONMENT.....	19-2
	1906 NONCONFORMING USE BROUGHT INTO COMPLIANCE -- NO REVERSION.....	19-2
	1907 UNDERSIZED LOTS.....	19-2
	1908 IMPROVEMENTS.....	19-2
	1909 REPAIRS.....	19-2
	1910 RESTORATION OF DAMAGE.....	19-2
	1911 PRIOR CONSTRUCTION APPROVAL.....	19-3
	1912 ZONE MAP CHANGES.....	19-3
	1913 ELIMINATION OF ILLEGAL STRUCTURES AND USES.....	19-3
<b>ARTICLE 20 SIGN REGULATIONS .....</b>		<b>20-1</b>
Section	2001 PURPOSE.....	20-1
	2002 DEFINITIONS.....	20-1
	2003 GENERAL SIGN REGULATIONS.....	20-1
	2004 PERMITTED SIGNS IN AA, A, AM, F, FR, and OC ZONES.....	20-2
	2005 SIGN SURFACE DISPLAY AREA AND SETBACK.....	20-2
	2006 PERMITTED SIGNS IN THE B AND M ZONES.....	20-3
	2007 SIGNS FOR GASOLINE SERVICE STATIONS.....	20-3
	2008 SIGNS FOR AUTOMOBILE DEALERSHIPS.....	20-4
	2009 POLITICAL SIGNS.....	20-4

ARTICLE 21 KEEPING OF ANIMALS .....	21-1
Section 2101 DOGS AND CATS.....	21-1
2102 FOWL AND RABBITS.....	21-1
2103 LARGE ANIMALS.....	21-2
ARTICLE 22 ROADS AND STREETS .....	22-1
Section 2201 DEFINITIONS.....	22-1
2202 LOT ACCESS TO A STREET.....	22-1
2203 DRIVEWAYS.....	22-1
2204 PRIVATE STREETS.....	22-2
2205 PAVED ROADS IN HEAVY TRAFFIC AREAS.....	22-6
2206 VISIBILITY AT INTERSECTIONS.....	22-6
2207 STREET CLOSURE.....	22-6
2208 CONSTRUCTION SITE ACCESS.....	22-7
2209 MINIMUM VERTICAL CLEARANCE.....	22-7
ARTICLE 23 PARKING AND LOADING REQUIREMENTS .....	23-1
Section 2301 GENERAL PARKING REQUIREMENTS AND APPLICATION OF REGULATIONS.....	23-1
2302 OFF-STREET PARKING REQUIREMENTS IN ALL EXCEPT LIMITED INDUSTRIAL AND BUSINESS ZONES.....	23-1
2303 OFF-STREET PARKING REQUIREMENTS IN BUSINESS AND LIMITED INDUSTRIAL ZONES.....	23-2
2304 OFF-STREET PARKING SPACE REQUIREMENTS.....	23-3
2305 OFF-STREET LOADING AND UNLOADING REQUIREMENTS.....	23-3
ARTICLE 24 SUPPLEMENTAL ZONING REGULATIONS .....	24-1
Section 2401 PURPOSE.....	24-1
2402 DEFINITIONS.....	24-1
2403 RESIDENTIAL ACCESSORY STRUCTURES AND PRIVATE GARAGES.....	24-1
2404 LOT-STRUCTURE RELATIONSHIP.....	24-3
2405 ACCESSORY STRUCTURE AS DWELLING.....	24-3
2406 BASEMENT AS DWELLING.....	24-3
2407 WATER SUPPLY AND SANITARY SEWERAGE FACILITIES.....	24-3
2408 EXEMPTIONS FROM HEIGHT REGULATIONS.....	24-4
2409 JUNK AND DUMPING.....	24-4
2410 STRUCTURES ON CORNER LOTS.....	24-5
vi	
2411 RESTORATION OF DAMAGED STRUCTURES.....	24-5
2412 RAZING OF STRUCTURES.....	24-5
2413 STORAGE OF RECREATION EQUIPMENT.....	24-6
2414 STORAGE AND REPAIR OF VEHICLES; INOPERABLE VEHICLES.....	24-6

2415	STATE LICENSED RESIDENTIAL FACILITIES.....	24-7
2416	NUMBER OF DWELLINGS ON A LOT.....	24-7
2417	DISC ANTENNAS (ALSO KNOWN AS DISH, SATELLITE ANTENNAS, OR TVRO SYSTEMS).....	24-7
2418	PARKING AND STORAGE OF VEHICLES, BOATS, TRAILERS AND RECREATIONAL EQUIPMENT.....	24-7
2419	BUFFERYARD REQUIREMENTS .....	24-8
2420	FENCES, WALLS AND SCREENS.....	24-10
2421	SHORELINE EXCAVATION AND DREDGING.....	24-10
2422	ESSENTIAL SERVICES AND ESSENTIAL SERVICES STRUCTURES.....	24-10
2423	SWIMMING POOLS.....	24-11
2424	HOME OCCUPATIONS.....	24-11
2425	LANDSCAPING.....	24-12

ARTICLE 25 REGULATION OF SEXUALLY ORIENTED  
BUSINESSES .....

	25-1
Section 2501	PURPOSE AND FINDINGS..... 25-1
2502	DEFINITIONS..... 25-5
2503	CLASSIFICATION..... 25-9
2504	BUSINESS LICENSE/EMPLOYEE REGISTRATION REQUIRED..... 25-10
2505	ISSUANCE OF LICENSE..... 25-13
2506	INSPECTIONS..... 25-15
2507	EXPIRATION OF LICENSE..... 25-15
2508	SUSPENSION OF LICENSE..... 25-15
2509	PROHIBITED ACTS; REVOCATION OF LICENSE..... 25-15
2510	JUDICIAL REVIEW..... 25-16
2511	NO TRANSFER OF LICENSE..... 25-16
2512	LOCATION OF SEXUALLY ORIENTED BUSINESS..... 25-17
2513	ADDITIONAL REGULATIONS FOR INDIVIDUALS AT SEXUALLY ORIENTED BUSINESSES..... 25-17
2514	ADDITIONAL REGULATIONS FOR ADULT MOTELS..... 25-17
2515	ADDITIONAL REGULATIONS FOR ESCORT AGENCIES..... 25-17
2516	ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS..... 25-18
2517	ADDITIONAL REGULATIONS FOR EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, AND LIVE PERFORMANCES..... 25-18

2518	EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.....	25-20
2519	PERSONS YOUNGER THAN EIGHTEEN PROHIBITED FROM ENTRY; ATTENDANT REQUIRED.....	25-20
2520	HOURS OF OPERATION.....	25-20

ARTICLE 26 WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS.....	26-1
Section 2601 PURPOSE.....	26-1
2602 DEFINITIONS.....	26-1
2603 APPLICABILITY; EXCEPTIONS.....	26-3
2604 GENERAL REQUIREMENTS APPLICABLE TO ALL NEW TOWERS AND ANTENNAS.....	26-3
2605 TOWERS AND ANTENNAS IN THE TOWER PERMITTED DISTRICT.....	26-8
2606 RELOCATION OF EXISTING TOWERS .....	26-9
2607 SPECIAL USE PERMITS.....	26-10
2608 ANTENNAS ON STRUCTURES OR OTHER EQUIPMENT.....	26-11
2609 REMOVAL OF ABANDONED AND NONCONFORMING ANTENNAS AND TOWERS.....	26-12
2610 NONCONFORMING USES.....	26-13
2611 TOWNSHIP DECISIONS.....	26-14
ARTICLE 27 AMENDMENTS.....	27-1
Section 2701 AMENDMENT INITIATION.....	27-1
2702 AMENDMENT PROCESS.....	27-1
2703 APPLICATION REQUIREMENTS.....	27-1
2704 FACT FINDING BY PLANNING COMMISSION.....	27-2
2705 COMPREHENSIVE REVIEW OF ORDINANCE.....	27-3
ARTICLE 28 WIND TURBINES AND WIND ENERGY FACILITIES. .	28-1
Section 2801 PURPOSE.....	28-1
2802 DEFINITIONS.....	28-1
2803 PERMITTED AND SPECIAL USES.....	28-2
2804 PERMIT REQUIREMENT.....	28-3
2805 SPECIAL USE PERMIT APPLICATION FOR WIND ENERGY FACILITIES.....	28-3
2806 SPECIAL USE PERMIT APPLICATION FOR WIND TURBINE NOT LOCATED IN A WIND ENERGY FACILITY...	28-5
2807 WIND TURBINE DESIGN AND INSTALLATION.....	28-7
2808 WIND TURBINE HEIGHT.....	28-8
2809 SETBACKS.....	28-9
2810 NOISE AND SHADOW FLICKER.....	28-9
2811 UTILITY NOTIFICATION.....	28-10
2812 SIGNAL INTERFERENCE.....	28-10
	viii
2813 DECOMMISSIONING.....	28-10
2814 SEVERABILITY.....	28-10
2815 EFFECTIVE DATE.....	28-10



ARTICLE 29 BICYCLE PATHS AND SIDEWALKS

Section	2901	Purpose.....	29.01
	2902	Scope and Applicability.....	29.01
	2903	Design Standards.....	29.02
	2904	Installation.....	29.02
	2905	Legal Nonconforming Bicycle Path and/or Sidewalks	29.03
	2906	Legal Nonconforming Bicycle Path and/or Sidewalk Maintenance and Repair.....	29.04
	2907	Maintenance.....	29.04



## ARTICLE 1

### TITLE, PURPOSES, AND LEGAL CLAUSES

#### 101 SHORT TITLE

This Ordinance shall be known and may be cited as: "The Whitehall Township Zoning Ordinance".

#### 102 REPEAL AND SAVINGS CLAUSE

As of and after the Effective Date of this Ordinance, as stated in Section 107, all previous Whitehall Township Zoning Ordinances, including the most recent ordinance dated August 21, 1995, and including amendments and additions thereto, are repealed. The repeal of said ordinances shall not release any penalty or liability incurred under said ordinances, and such ordinances shall be treated as remaining in force for the purpose of instituting or continuing any proper action for the enforcement of such penalty or liability.

#### 103 ZONING MAP

The Zoning Map made a part of this Ordinance is deemed a part of this Zoning Ordinance.

#### 104 VALIDITY AND SEVERALTY CLAUSE

If a court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provision of this Ordinance not specifically included in said ruling. If a court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, zone, use, or structure, such ruling shall not affect the application of said provision to any other lot, zone, use, or structure not specifically included in said ruling.

**105 CONFLICT WITH OTHER PROVISIONS OF THIS ORDINANCE, WITH OTHER LAWS OR ORDINANCES, OR OTHER PRIVATE RESTRICTIONS OR COVENANTS**

A. Where any condition imposed by any provision of this Ordinance upon the use of any lot, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this or another applicable ordinance, or adopted under any other law, then in such case the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

B. This Ordinance is not intended to abrogate any easement, subdivision restriction, or other private agreement; provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, subdivision restriction, or other private agreement, then the provisions of this Ordinance shall govern.

**106 PERIOD OF EFFECTIVENESS**

This Ordinance shall remain in full force and effect henceforth, unless repealed.

**107 EFFECTIVE DATE: PUBLICATION**

This Ordinance shall take effect on the eighth day after publication of a notice that such Ordinance has been adopted.

Made, passed, and adopted by the Township Board of the Township of Whitehall, this 8th day of June, 2004.

# THE ZONING ORDINANCE OF THE TOWNSHIP OF WHITEHALL

## PREAMBLE

An ordinance to establish zoning districts and thereby to regulate and promote: the health, safety, and general welfare of the people of the Township of Whitehall; the location and use of structures and land, including the permitted and special uses of same, the height and size of structures, the dimensions of yards and other open spaces, the use, size, and type of signs, parking and loading requirements, the density of population; to encourage the use of lands in accordance with their character and adaptability; to limit the improper use of land; to conserve natural resources and energy; to meet the needs of the State's residents for foods, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other appropriate uses of land; to insure that uses of land shall be situated in appropriate locations and relationships; to avoid overcrowding of population and structures; to provide adequate light and air; to lessen congestion on public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous uses of land, resources, and properties; to provide for completion, enforcement, and amendment of this Ordinance; to provide for the completion, extension, substitution, or elimination of non-conforming uses; to provide for a Zoning Board of Appeals and to define the powers and duties thereof; to designate and define the powers and duties of the official or officials in charge of the administration and enforcement of this Ordinance; to provide for the payment of fees for all types of zoning permits and zoning actions; to provide penalties for the violation of this Ordinance; and to repeal the previous Township Zoning Ordinance of Whitehall. This Ordinance is enacted under the authority of P.A. 184 of 1943, as amended.

**THE TOWNSHIP OF WHITEHALL, COUNTY OF MUSKEGON, STATE OF MICHIGAN HEREBY ORDAINS:**

THIS PAGE INTENTIONALLY LEFT BLANK

## ARTICLE 2

### ADMINISTRATION AND ENFORCEMENT

#### 201 ADMINISTRATION

The Township Board shall appoint a Zoning Administrator and any necessary assistants to administer this Ordinance, with such terms of employment and rate of compensation as shall be established by the Township Board. For the purpose of this Ordinance, such Zoning Administrator shall have the powers of a police officer.

#### 202 DUTIES OF ZONING ADMINISTRATOR

The Zoning Administrator shall:

A. Provide forms for and receive applications for all permits, petitions, and/or appeals authorized or required by this Ordinance, including but not limited to: Special Use Permits, site plan approval, applications for Ordinance amendments to be submitted to the Planning Commission, and appeals, variances, and other matters to be submitted to the Zoning Board of Appeals.

B. Verify that all applications, petitions, and appeals submitted under this Ordinance are properly filled out and that all necessary supporting data is submitted, conduct field inspections; inspect surveys and site plans; conduct investigations; prepare maps, charts, or other pictorial materials when appropriate; and otherwise process all such applications, petitions, and appeals submitted under this Ordinance.

C. Maintain a record of all official actions taken under this Zoning Ordinance.

D. Administer the Zoning Ordinance pursuant to the terms thereof, as well as the determinations and general policies of the Township Board, Planning Commission, and Zoning Board of Appeals.

E. Issue, deny, or rescind zoning permits as set forth in this Ordinance.

#### 203 ZONING PERMITS REQUIRED; EXCEPTIONS

Zoning permits are required for and shall be obtained prior to any change in use of

land or the use, construction, enlargement, alteration, conversion, or moving of any sign or structure or any part thereof, except under the following circumstances:

- A. The erection and/or placing of a temporary portable structure incident to any construction operation in any zone, so long as the placement of said structure shall conform to the setback and height requirements of the zone in which it is located.
- B. Repairs of a minor nature such as painting and general maintenance and upkeep which do not change the use, occupancy or area of a structure or sign.

#### **204 REQUIRED COMPLIANCE WITH THIS ORDINANCE**

Except as otherwise stated to the contrary in this Ordinance:

- A. No structure or land shall be used or occupied, and no structure or any part thereof shall be erected, moved, or altered unless in conformity with the requirements specified for the zone in which it is located.
- B. No structure shall be erected or altered in violation of the lot area, lot width, lot coverage, minimum floor area, front, side, and rear yard setbacks, height, off-street parking, open space, interior living space, greenbelt buffer, accessory structure, lot-structure relationship, water supply and sanitary sewerage facilities, streets, access, fences, walls, and screens, swimming pools, signs, and other requirements as provided in the Ordinance for the zone in which such structure is located.
- C. No structure shall be erected or altered to accommodate or house a greater number of persons or families than is provided for by the requirements of this Ordinance for such structure for the zone in which such structure is located.
- D. The maintenance, use and occupation of lands and structures in compliance with this Ordinance shall be a continuing obligation upon the owners and occupiers of such lands and structures.

#### **205 PERMITS – VOIDABLE**

- A. Any zoning permit, Special Use Permit, variance, or site plan approval issued under this Ordinance, or other provision of law shall be deemed null and void in the event that there has not been undertaken, on a material and substantial basis, commencement of construction on the project within one (1) year of issuance of said permit.



The Zoning Administrator may suspend or revoke any permit or approval issued in error or on the basis of incorrect information supplied by the applicant or its agents, or in the event that the development is or will be in violation of any other ordinance of the Township, County, State, or Federal Government, or if the construction or use of the premises deviates from the plans or information submitted with the application upon which such permit or approval was issued,

B. If a zoning permit or approval issued under this Ordinance is voided or revoked, notice shall be provided to the applicant in person or sent by regular mail to the address on the application.

## **206 ZONING FEES, CHARGES, AND EXPENSES**

Amended 10/27/2014 Effective 11/09/2014

The Township Board shall establish a schedule of fees and a collection procedure for zoning permits, site plan review, appeals, variances, land division and other matters pertaining to this Ordinance. The schedule of fees may be altered or amended by the Township Board only. Provided further that the schedule of fees shall be deemed a minimum or base fee, and in addition the Township may charge its actual costs and expenses incurred in the review of such permits, appeals, or other petitions submitted pursuant to this Ordinance, which costs may include but shall not be limited to: publication fees, professional engineering or site plan review fees by such professionals as the Township may engage, and attorney fees incurred by the Township in reviewing and drafting documents necessary to the review or grant of any petition submitted to the Township under this Ordinance. No permit, certificate, special use approval or variance shall be issued until such costs, charges, fees, or expenses have been paid in full, nor shall any final action be taken by the Board of Appeals or the Planning Commission until preliminary fees have been paid in full. Fees now provided in other existing ordinances of the Township shall remain in effect until amended by the Township Board.

## **207 VIOLATIONS - NUISANCES PER SE**

Any use of land or of any structure, including tents and mobile homes, which are moved, erected, constructed, reconstructed, altered, converted, maintained, used, or changed in violation of this Ordinance, or without obtaining a zoning permit, is prohibited and hereby declared to be a nuisance per se.

## **208 CRIMINAL PENALTIES AND CIVIL RELIEF**

Any legal entity, person or the agent in charge of any structure or land who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforce-

ment of, any provision of this Ordinance or any amendment thereof, shall be fined upon conviction not more than one hundred and 00/100 dollars (\$100,00), together with the actual costs of prosecution, and/or shall be punished by imprisonment for not more than ninety (90) days in the County Jail, or both. Each and every day during which an illegal moving, erection, construction, reconstruction, alteration, maintenance, use or other violation of this Ordinance continues shall be deemed as separate offenses. In addition to criminal sanctions, the Township or any owner or owners of real estate within the zone in which such structure or land is situated may institute any appropriate action or proceeding to prevent, enjoin, abate, remove or terminate any said unlawful structures, construction, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

In addition to other sanctions provided herein or elsewhere in this Ordinance, persons determined to be in violation of this Ordinance shall be required to pay and reimburse the Township for its actual costs of prosecution or litigation, including court costs and actual attorney fees.

#### **209 ENFORCEMENT OF ZONING BY CORRECTIVE ACTION AND LIEN**

In the event of any violation of any provisions of this Ordinance, and in addition to all other remedies provided herein, the Township Board may undertake to correct the violation and to assess the land and any improvements for the cost thereof, which said assessment shall become a lien upon said land and any improvements and may be collected in the same manner as township taxes in accordance with applicable law.

#### **210 PERFORMANCE GUARANTY**

In approving any zoning permit, the Zoning Administrator may require that a temporary or permanent cash deposit, certified check, performance bond, letter of credit, and/or other guaranty acceptable to the Zoning Administrator, in such amount and upon such terms as the Zoning Administrator shall deem appropriate, be furnished by the applicant or property owner or both, to insure continued compliance with the terms of this Ordinance, the terms and conditions of the permit as approved, and with any other requirements related to any construction or improvement of any lot authorized by such approved permit. Any such financial guaranty shall be deposited with the Township Treasurer prior to the issuance of the permit. As work progresses, the Zoning Administrator may authorize a partial rebate in or reduction of the amount of any such financial guaranty.

## ARTICLE 3

### ZONING BOARD OF APPEALS

#### 301 ZONING BOARD OF APPEALS ESTABLISHED

There is hereby established a Zoning Board of Appeals which shall perform duties and exercise powers in accordance with PA 110 of 2006, MCLA 125.3101 et. seq., as amended.

#### 302 MEMBERSHIP

A. The Township Zoning Board of Appeals shall consist of five (5) members. The first member shall be a member of the Planning Commission. The second member shall be a member of the Township Board, provided that such member of the Township Board shall not serve as Chairperson of the Zoning Board of Appeals. The remaining three (3) members and two (2) alternates shall be citizens at large from the Township. All members shall be appointed by the Township Board. No employees or contractors of the Township Board may serve on the Board of Appeals. Terms of office are three (3) years except for those serving as representatives from the Planning Commission or Township Board. For such representatives, terms are limited to the time they are members of their respective boards or commissions. All reference hereafter in this Ordinance to the Township Board of Appeals or Board of Appeals or Zoning Board of Appeals shall be deemed to refer to the Township Zoning Board of Appeals.

B. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

#### 303 MEETINGS; POWERS AND DUTIES OF CHAIRPERSON; RECORDS

Meetings of the Township Zoning Board of Appeals shall be held at the call of the

chairperson, who shall be elected by the members of the Township Board of Appeals, and at such other times as the Board in its rules of procedure may specify. The chairperson may administer oaths and compel the attendance of witnesses. All such meetings shall be open to the public. Such Board shall maintain a record of its proceedings, which shall be filed with the Township Clerk and shall be a public record.

### **304 DUTIES; RULES; HEARING AND DECISION OF APPEALS; RIGHT TO AND GROUNDS FOR APPEALS**

A. The Township Zoning Board of Appeals shall act upon all questions that arise in the administration of the Zoning Ordinance, including the interpretation of the zoning map. It may fix rules and regulations to govern its procedures.

B. It shall hear and decide appeals from and review any order, requirement, or determination made by an administrative official charged with administration of this Ordinance. It may reverse or affirm, wholly or partly, or may modify the order, requirement, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a zoning permit.

C. It shall hear and decide all matters referred to it or upon which it is required to pass pursuant to MCLA 125.3601 et. seq. The concurring vote of three (3) members of the Board of Appeals shall be necessary to reverse or modify an order, requirement, or determination of the administrative officer or to decide in favor of the applicant on any matter upon which they are required to pass under such statute.

D. An appeal may be taken by any person aggrieved by the order, requirement or determination made by an administrative official charged with administration of this Ordinance.

### **305 TIME TO APPEAL AND NOTICE OF APPEAL; TRANSMISSION OF RECORD**

Such appeal shall be taken within sixty (60) days of date of issuance of the order, requirement, or determination appealed from, by the filing with the officer from whom the appeal is taken on the appropriate form provided by the Zoning Administrator. The zoning official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all documents constituting the record of the action being appealed.

### **306 STAY OF PROCEEDINGS PENDING APPEAL**

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Zoning Board of Appeals, after the appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed other than by a restraining order, which may be granted by the Zoning Board of Appeals or by the circuit court, with notice to the zoning official from whom the appeal is taken.

### **307 AUTHORITY TO GRANT VARIANCES**

The Zoning Board of Appeals shall have the power to authorize, upon appeal in specific cases, such nonuse variance from the provisions of this Zoning Ordinance as will not be contrary to the public interest, where a literal enforcement of the provisions of this Ordinance would result in practical difficulty.

### **308 CONDITIONS UPON WHICH VARIANCES MAY BE GRANTED; PROCEDURES AND HEARINGS**

A. A nonuse variance shall not be granted by the Zoning Board of Appeals unless and until a written application for a variance is submitted, and a hearing thereon held wherein the applicant demonstrates all of the requirements set forth below.

1. That conditions and circumstances exist which are peculiar to the land (including but not limited to location, width, depth, shape or topography) or structure involved and which are not applicable to all other lands or structures in the same vicinity. However, this condition does not mean that the peculiar conditions and circumstances must exclusively effect only the applicant's land. Additionally, satisfaction of this condition shall not necessarily require that the property have specific physical characteristics, such as size or topographic peculiarities, that make it unique. "Uniqueness" may be found in changing circumstances, which though applicable to some others in the vicinity of the applicant's land, are not applicable to all others in the vicinity of the applicant's land.

2. The land subject to the variance application cannot reasonably be used in a manner consistent with the literal interpretation of the applicable provisions of this Ordinance. For property used in a trade or business or

held for the production of income, this condition may be satisfied if the applicant can establish that the applicant could not receive a reasonable economic return for the property under a literal interpretation of the Ordinance provisions applicable to the land.

3. That the conditions and circumstances do not result from the actions of the applicant.

4. The use authorized by the variance will not alter the essential character of the general locality in which the applicant's land is located. In considering the essential character of the general locality, the Zoning Board of Appeals need not focus solely on the immediate neighboring properties, but may take a more expansive view of the general locality.

5. That the variance requested shall be the minimum variance that will make possible the reasonable use of the land or structure.

6. That the granting of the variance shall be in harmony with the intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.

B. The notice required for such a variance hearing shall be as follows:

1. Following receipt of a written application concerning a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request and shall publish notice of the request in a newspaper of general circulation in Whitehall Township.

2. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Whitehall Township.

3. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall do all of the following:

(a) Describe the nature of the request;

(b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used;

(c) State when and where the request will be considered; and

(d) Indicate when and where written comments will be received concerning the request.

### **309 CONDITIONAL GRANT OF VARIANCES**

In granting any variance, the Zoning Board of Appeals may require appropriate conditions and safeguards, which shall be deemed a part of the terms under which the variance is granted. Any subsequent violation of such terms shall be deemed a violation of this Zoning Ordinance.

### **310 PERFORMANCE GUARANTY**

In approving the variance, the Zoning Board of Appeals may require that a temporary or permanent cash deposit, certified check, performance bond, letter of credit, and/or other guaranty acceptable to the Zoning Board of Appeals, in such amount and upon such terms as the Zoning Board of Appeals shall deem appropriate, be furnished by the applicant or property owner or both, to insure continued compliance with the terms of this Ordinance, the terms and conditions of the variance as approved, and with any other requirements related to any construction or improvement of any lot authorized by such approved variance. Any such financial guaranty shall be deposited with the Township Treasurer prior to the issuance of the variance. As work progresses, the Zoning Board of Appeals may authorize a partial rebate in or reduction of the amount of any such financial guaranty.

### **311 ABANDONMENT AND TERMINATION OF VARIANCES**

A. Each variance granted under the provisions of this Zoning Ordinance shall become null and void unless the construction or occupancy authorized by such variance or permit has been commenced, on a material and substantial basis, within one (1) year after the granting of such variance and thereafter pursued diligently to completion.

B. Any non-use of a variance previously granted, for a period of one (1) year or more, shall result in such variance being deemed abandoned and terminated.

### **312 DECISION OF THE ZONING BOARD OF APPEALS; APPEALS TO THE CIRCUIT COURT**

The decision of the Zoning Board of Appeals shall contain the findings and determinations of the Board in each case. The signature of the chairperson and the secretary of the Zoning Board of Appeals shall be affixed thereon. Any persons aggrieved by the decision of the Zoning Board of Appeals shall have the right to appeal to the Circuit Court for Muskegon County, which appeal shall be brought within thirty (30) after issuance of the decision by the Zoning Board of Appeals.



THIS PAGE INTENTIONALLY LEFT BLANK

## ARTICLE 4

### CONSTRUCTION OF LANGUAGE AND DEFINITIONS

#### 401 WORD USAGE RULES

The following rules of construction apply to the text of this Zoning Ordinance

- A. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- B. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary
- C. A "structure" includes any part thereof.
- D. The word "used" or "occupied" as applied to any land or structure shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- E. The words "zone" and "district" shall be considered to mean the same thing and may be used interchangeably.
- F. Any *word* or term not defined herein shall be used with a meaning of common or standard utilization.

#### 402 DEFINITIONS

The following definitions apply to this Ordinance. Other definitions appear elsewhere in this Ordinance, as appropriate.

**ABANDON:** Cease to use or occupy a structure or land for its allowed use for the period specified in this Ordinance.

**ACCESSORY STRUCTURE.** A separate subordinate structure (whether temporary or permanent), the use of which is incidental to that of the principal structure on the land. For dwellings, one (1) detached or attached (but not both), garage is considered a part of the principal use

**ACCESSORY USE:** A use (whether temporary or permanent) subordinate to the

principal use on a lot and used for purposes clearly incidental to those of the main use..

**AGRICULTURAL USES:** Includes purposes related to agriculture, farming, dairying, pasturage, horticulture, and animal and poultry husbandry

**ALLEY:** A public or legally established private thoroughfare, other than a street, which affords a secondary means of access to abutting property, and not more than twenty (20) feet wide.

**ALTERATIONS:** Any change, addition, or modification in construction, any change in the structural component of a structure, such as walls, or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

**AUTOMOBILE, VEHICLE, OR TRAILER SALES AREA:** Any space used for display, sale or rental of motor vehicles, motorcycles, or trailers, in new or used and operable condition.

**AUTOMOTIVE REPAIR:** General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame or fender straightening and repair, and overall painting and undercoating of automobiles when carried on in a completely enclosed room or structure..

**BASEMENT:** That portion of a structure which is below the first story, the ceiling of which is less than five (5) feet above the majority of the surrounding ground elevation at all points.

**BICYCLE PATH:** An asphalt or concrete path for non-motorized users \*that is physically separated by an open space buffer or physical barrier from the portion of a street or private road traveled by motor vehicles. Amended 10-28-2013

**BILLBOARD:** See definition of "Sign"

**BUILDING:** See definition of "Structure".

**CHURCH:** A structure wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain worship.

**CLUB OR LODGE, PRIVATE:** A non-profit association of persons who are bona fide members paying dues, which owns, hires, or leases a structure or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests may be allowed provided it is secondary

and incidental to the promotion of some other common objective by the organization.

**DWELLING:** A structure or portion thereof designed or used exclusively as the home, residence or sleeping place of one (1) or more persons. In the case of a mixed occupancy where a structure is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Garage space, whether in an attached or detached garage, shall not be considered as part of a dwelling for meeting minimum area requirements. A dwelling shall comply with the following standards.

A. The dwelling shall meet the living space requirements for the zoning district in which it is located. In addition, the minimum dimension of the area of the dwelling shall be twenty four (24) feet by twenty four (24) feet.

B. If a dwelling has wheels, towing mechanism, or undercarriage, they shall be removed.

C. The dwelling shall be connected to a public sanitary sewer and public water system if available, or to private on-site facilities, approved by the Muskegon County Health Department.

D. The dwelling shall contain storage area, in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling. The storage area, which may consist of separate sub-areas, shall be equal to fifteen percent (15%) of the square footage of the dwelling, or one hundred fifty (150) square feet, whichever is less.

E. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of at least six (6) inches on all sides, or alternatively, with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling, has at least two (2) exterior doors, with the second one being in either the rear or side of the dwelling, and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans (which may include elevational sketches or photographs) submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards.

set forth in this definition of "dwelling" as well as the character, design and appearance of one (1) or more residential dwellings located outside of mobile home parks within two thousand (2,000) feet of the subject dwelling, where at least twenty percent (20%) of the lots situated within said area have been developed with dwellings, or where said area is not so developed, by the character, design, and appearance on one or more residential dwellings located outside of mobile home parks throughout the Township The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design home.

F. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

G. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by State or Federal law

**DWELLING UNIT.** A structure or portion thereof, designed as a dwelling for occupancy by one (1) family.

**DWELLING UNIT, ONE FAMILY ("Single Family Dwelling")** A structure designed exclusively for one dwelling unit.

**DWELLING UNIT, TWO FAMILY ("Duplex").** A structure designed for two (2) (but not more than two) dwelling units

**DWELLING UNIT, MULTIPLE FAMILY.** A structure designed for occupancy by three (3) or more dwelling units

**ESSENTIAL SERVICES.** The phrase "essential services" means either (1) government provided services or (2) the erection, construction, alteration or maintenance by public utilities or municipal department or commission of underground or overhead gas, cable TV or other cable, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in connection therewith; including structures, reasonably necessary for the furnishing of such government provided services or

such adequate service by such public utilities or municipal departments or commission or for the public health or safety or general welfare

**FAMILY** One (1) person, or group of two (2) or more persons living together who may or may not be inter-related by bonds of consanguinity, marriage, or legal adoption, occupying a dwelling as a separate housekeeping unit with a common single set of culinary facilities. The persons thus constituting a family may also include foster children, guests, and domestic servants This definition does not include the occupants of a rooming house, boarding house or co-operative unit as a family unit or the members of any order or association who have a common religious, fraternal, philosophical or economic bond

**FARM:** All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however for land to be considered a farm it shall include a continuous parcel of at least ten (10) acres in area

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the structure measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) structures. The "floor area" of a structure shall not include the area of any basement, "floor area" shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment, (except equipment, open or enclosed, located in a basement or on the roof), penthouses, attic space having headroom of seven (7) feet, six (6) inches or more, interior balconies and mezzanines Any space for off-street parking or loading shall not be included in "floor area" The terms "floor area" and "living space" (as hereafter defined), are separate concepts

**GARAGE, COMMERCIAL:** Any garage, other than a private garage available to the public, operated for gain, and used for automotive repair, storage, rental, washing, or serving the equipment of other motor vehicles

**GARAGE, PRIVATE:** A garage is an accessory to the permitted structure in a residential (A) (AA) (F) zone. **Amended 6/27/2016 Effective July 10, 2016**

**GASOLINE SERVICE STATION.** Any structure or lot used for the dispensation, sale or offering for sale at retail of any motor fuels, oils or lubricants. When the dispensing, sale or offering for sale of such products is incidental to the conduct of a commercial garage, the use is classified as a commercial garage.

**GRADE.** The ground elevation established for the purpose of regulating the number of stories and the height of structures. The structure grade shall be the level of the ground adjacent to the walls of the structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

**GREENBELT BUFFER.** A strip or parcel of land privately restricted or publicly dedicated as open space, located between land uses for the purpose of protecting the character of adjacent residential or other uses. Said greenbelt buffer shall include, but not be limited to the following materials, open space with maintained grass cover, evergreens, deciduous trees, shrubs, bushes

**HOME OCCUPATION.** An occupation that is allowed in a portion of a dwelling unit or accessory structure

**HOSPITAL.** An institution providing health services, primarily for in-patient, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities, central services facilities, and staff offices.

**JUNK YARD:** Any land or structure where waste, used or second hand materials are disposed of, bought, and sold, exchanged, stored, baled, parked, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and also includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed structures

**LAND USE PLAN:** The plan adopted by the Township Board, pursuant to P.A. 165 of 1959\_

**LIVING SPACE:** That area within a dwelling unit intended, designed, erected or used for human occupancy; that is the sum of the gross horizontal area of the floor in question of the structure used for occupancy, measured from the exterior faces of the exterior walls, from the center line of interior walls; but excluding porches, garages, common halls and other common areas in duplexes or multiple family dwelling units, unfinished basement areas, and breezeways not usable the year around, and excluding areas not included within the definition of floor area. The terms "floor area" and "living space" (as previously defined) are separate concepts.

**LOADING SPACE:** An off-street space on the same lot with a structure, or group

of structures, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials

**LOT.** A parcel of land (whether platted or not) occupied or intended for occupancy, including one (1) principal use structure together with its accessory structures, and providing the open-spaces, parking and loading spaces required by this Ordinance. Said parcel of land may consist of one (1) or more lots of record according to any recorded plat, which for the purpose of this Ordinance shall be deemed one (1) parcel or lot if title to the property is held in the name of the same person or entities. The term "lot" also includes a "unit" in a so-called site condominium.

**LOT, CORNER:** A lot where the interior angle of two (2) adjacent sides at the intersection of the two (2) streets is less than one hundred thirty five (135) degrees.

**LOT, INTERIOR:** Any lot other than a corner lot

**LOT LINES.** The lines bounding a lot as defined herein.

**Front Lot Line.** In the case of an interior lot, the line separating said lot from the street, in the case of a corner lot or double frontage lot, the line separating said lot from that street which is designated as the front street in the plat In the case of lots bordering on a lake, river, or canal, the established water or shoreline shall be designated as the rear of such lots.

**Lot, Waterfront** — a lot having frontage directly upon a lake, river, or other significantly sized impoundment of water. The portion adjacent to the water is considered the front yard and the opposite side, abutting the street, shall be the rear year. There shall be a rear yard setback of (40) feet. *Adopted 2/23/2015 Effective 3/8/2015*

**Rear Lot Line:** The lot line opposite the front lot line In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, at least ten (10) feet long lying farthest from the front lot line and wholly within the lot.

**Side Lot Line:** Any lot lines other than the front or rear lot lines of a lot.

**LOT AREA:** The total horizontal area within the lot lines of a lot.

**LOT COVERAGE:** That portion of the lot occupied by structures including accessory structures.

**LOT DEPTH:** The horizontal distance between the front and rear lot lines, measured along the median between side lot lines.

**LOT OF RECORD:** A lot existing prior to the adoption of this Ordinance and



recorded in the office of the County Register of Deeds, but dated and executed prior to the effective date of this Ordinance shall also constitute a lot of record

**LOT WIDTH:** The horizontal distance between the side lot lines, measured at the two (2) points where the structure setback intersects the side lot line.

**MASTER PLAN** See "Land Use Plan"

**MOBILE HOME:** A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a permanent dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same lot for more than thirty (30) days.

**MOBILE HOME PARK.** Any lot, however designated, that is occupied or designated for occupancy by more than one (1) mobile home and which is governed and which must conform to the provision of Act 243 of 1959.

**NONCONFORMING STRUCTURE:** A structure or portion thereof, existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance or to the use regulations of the district in which it is located

**NONCONFORMING LOT OR USE** A lot or use of land or any structures or portion thereof, existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of this Ordinance or of the district in which it is located

**NURSING OR CONVALESCENT HOME:** A structure with sleeping rooms where persons are housed or lodged and furnished meals and nursing care for hire.

**OFFSTREET PARKING.** A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) automobiles.

**OPEN SPACE** Any space suitable for recreation, gardens or household service activities such as clothes drying. Such space must be at least seventy five percent (75%) open to the sky, free of automotive traffic, parking and undue hazard, and readily accessible by all those for whom it is intended.

**PARKING SPACE:** An off-street land area exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to

be readily accessible to a public street or alley

**PLANNED UNIT DEVELOPMENT:** A tract of land which includes two (2) or more principal structures, developed under single ownership or control; the development of which is unique and of a substantially different character than that of the surrounding area, and where the specific requirements of a given zoning district may be modified. Such development may be based on a plan which allows for flexibility of design not available under normal requirements otherwise applicable in that zone

**PRINCIPAL USE:** The main use to which a lot is devoted and the main purpose for which the lot exists A dwelling includes one (1) attached or detached (but not both) garage as part of the principal use.

**PUBLIC PARK:** Any park, playground, beach, outdoor swimming pool, parkway, within the jurisdiction and control of a governmental agency authorized by State statutes to own and maintain parks.

**PUBLIC SEWER SYSTEM:** A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversions and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, treating or otherwise handling sanitary sewage or industrial liquid wastes of such a nature as to be capable of adversely affecting the public health, operated for the benefit of the general public in a given area whether owned by a public, semi-public, or private entity.

**PUBLIC UTILITY:** Any person or entity authorized to furnish to the public natural gas, steam, TV signal, electricity, sewage disposal, communications, telegraphs, transportation, or water

**RECREATION AREA: PRIVATE.** All lands and structures which are owned and operated by private individuals, a business, corporation or other entity that is predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

**RECREATIONAL VEHICLE:** Mobile units principally designed for recreation pastime such as motor homes, camper trailers, pick-up campers, pop-up tents, trailers and similar camping type vehicles or trailers

**RETAIL STORE:** Any structure in which goods, wares, or merchandise is sold to the ultimate customer for direct consumption

**SANITARY LANDFILL:** A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles or engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to suitably cover all dumped refuse at the conclusion of each day's operation or at more frequent intervals as necessary; and maintained in accordance with the provision of Act 87 of Public Acts of 1965, as amended.

**SETBACK:** The minimum horizontal distance between the street right-of-way, rear or side lines of the lot and the front, rear or side lines of a structure. When two (2) or more lots under one (1) ownership are used, the exterior property lines so grouped shall be used in determining offsets.

**SCHOOL:** A structure used for the purpose of elementary or secondary education which meets all requirements of compulsory education laws of the State of Michigan, and not providing residential accommodations\_

**SHOPPING CENTER:** A group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking provided on the property,

**SIDEWALK:** A concrete path for pedestrians that is physically separated by an open space buffer or physical barrier from the portion of a Street or Private Road traveled by Motor Vehicles. 10/28/2013

**SIGNS:** Any of the following which direct attention to a business or occupation conducted or to a commodity, service, or entertainment sold or offered for sale: billboards, bulletin boards, free-standing signs, illuminated signs, portable signs, wall signs, painted walls or any other structure or device regardless of size. Further included within the definition of advertising signs are spotlights intended, by their use, to draw the public's attention by their illuminating beam.

**STORY:** The part of a structure, included between the surface of one floor and the surface of the next floor, or if there is no floor above, than the ceiling next above.

**STRUCTURAL ALTERATION:** The erection, strengthening, removal, or other change of the supporting elements of a structure, such as footings, bearing walls, beams, columns and the like.

**STRUCTURE:** Anything (including a building) constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground\_

**SWIMMING POOL:** Any artificially constructed, portable or non-portable pool capable of being used for swimming or bathing, having a depth of three (3) feet or more at any point.

Adopted June 8, 2004

**UNDEVELOPABLE LAND.** Land which has soil types or high water condition which presents severe limitations on septic tank and tile fields

**USABLE FLOOR AREA** The area for the purpose of computing parking and off-street loading and unloading space, is that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients, or customers Such floor area which is used or intended to be used principally for the storage or processing of merchandise utilized shall be excluded from this computation of "usable floor area" Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the structure measured from the interior faces of the exterior walls

**USE:** The purpose for which land or premises of a structure thereon is designed, arranged, or intended, or for which it is occupied or maintained

**YARD: An** open space on the same lot with the principal use structure, unoccupied and unobstructed from the ground upward except as otherwise provided in the Ordinance Yards shall be measured from roof drip edge of structures

**Front yard.** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main structure

**Rear yard:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and nearest line of the main structure.

**Side yard:** A yard between the main structure and the side lot line, extending from the front yard to the rear yard the width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of the main structure

THIS PAGE INTENTIONALLY LEFT BLANK

THIS PAGE INTENTIONALLY LEFT BLANK

## ARTICLE 5

### GENERAL PROVISIONS REGARDING ESTABLISHMENT OF ZONING DISTRICTS AND THE OFFICIAL ZONING MAP

#### 501 ESTABLISHING OF ZONING DISTRICTS

The Township is hereby divided into separate areas or types of zoning districts, which in this Ordinance are called "zones". The requirements and regulations applicable to each zone are described and located as follows:

Definitions relative to the use of land and structures within these zones are located in Section 402 of this Ordinance.

"A" - Low Density Residential Zone	Article 6
"AA" - Higher Density Residential Zone	Article 7
"AM" - Mobile Home Residential Zone	Article 8
"F" - Small Farm Zone	Article 9
"B" - Business Zone	Article 10
"M" - Limited Industrial Zone	Article 11
"FR" - Forestry Recreational Zone	Article 12
"OC" - Open Space and Water Body Conservation Zone	Article 13

#### 502 PROVISION FOR OFFICIAL ZONING MAP

These zones, so established, are delineated and defined as shown on the zoning map, and which, with all notations, references and other information appearing thereon, are hereby declared to be a part of this Ordinance.

#### 503 AUTHORITY OF OFFICIAL ZONING MAP

Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Township Clerk shall be the final authority as to the current zoning status of any area or zone within the Township. The Official Zoning Map shall be signed by the Township Clerk and Supervisor.

#### **504 REPLACEMENT OF OFFICIAL ZONING MAP**

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes made thereto, the Township Board may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending the Zoning Ordinance or the prior Official Zoning Map.

#### **505 INTERPRETATION AND LOCATION OF ZONING DISTRICTS AND BOUNDARIES ON OFFICIAL ZONING MAP**

Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules for interpretation shall apply:

- A. A boundary indicated as approximately following the centerline of a highway, street, alley, railroad, or easement shall be construed as following such centerline.
- B. A boundary indicated as approximately following recorded lot line, bounding a parcel, section line, quarter section line, or other survey line shall be construed as following such line.
- C. A boundary indicated as approximately following the corporate boundary line of the Township shall be construed as following such line.
- D. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
- E. A boundary indicated as following the centerline of a stream, river, canal, lake, or other body of water shall be construed as following such centerline.
- F. A boundary indicated as parallel to or an extension of a feature indicated in paragraphs "A" through "E" above shall be so construed.
- G. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.



## ARTICLE 6

### "A" LOW DENSITY RESIDENTIAL ZONE

#### 601 PURPOSE

This zoning district is to be used for residential purposes consisting primarily of one (1) family dwelling units in a spacious setting.

Definitions relative to uses of land and structures within this zone are located in Section 402 of this Ordinance.

#### 602 PERMITTED USES

A. One (1) family dwelling unit, including allowed accessory structures, such as private garages, which shall be erected and maintained only as accessories to the dwelling unit situated on the same lot, and which shall not involve the conduct of a business, unless authorized as a home occupation

B. Temporary structures for uses incidental to construction work, which structures shall be removed upon the completion or abandonment of the construction work.

C. Uses customarily incidental to any of the above uses when located on the same lot.

#### 603 SPECIAL USES

Special uses in this zone may be subject to site plan review and/or criteria and standards in excess of those typical regulations governing yards, lot sizes and the like.

A. Planned Unit Developments.

B. Home Occupations.

C. Previously used one (1) family dwelling units, moved onto the lot.

#### 604 LOT REQUIREMENTS

A. No lot shall be created that has a lot area less than forty thousand (40,000)

square feet. Every structure hereafter erected or structurally altered shall be located upon a lot with a lot area of at least forty thousand (40,000) square feet per dwelling unit, unless the lot is a lawfully nonconforming lot.

B. All interior lots shall have a minimum width of one hundred fifty (150) feet frontage on the street, and all corner lots shall have a minimum width of one hundred fifty (150) feet, provided, that lots on irregular and curving streets may have a minimum frontage of one hundred (100) feet if the width at the structure setback line is at least one hundred fifty (150) feet.

C. The maximum structure coverage is fifteen (15) per cent.

D. There shall be a front yard setback of at least forty (40) feet.

E. There shall be a side yard setback of at least twenty (20) feet.

F. There shall be a rear yard setback of at least ten (10) feet.

G. No yard, court, or other open space provided about any structure shall again be used as a yard or other open space for another structure for the purpose of complying with the provisions of this Ordinance.

H. Lot, Waterfront — A lot having frontage directly upon a lake, river, or other significantly sized impoundment of water. The portion adjacent to the water is considered the front yard and the opposite side, abutting the street, shall be the rear yard. There shall be a rear yard setback of (40) feet. *Adopted 2/23/2015 Effective 3/8/2015*

## 605 STRUCTURE REQUIREMENTS

A. Not more than one (1) dwelling unit, together with its accessory structures, shall be built on any lot

B. No structure hereafter erected or structurally altered shall exceed two (2) stories or twenty eight (28) feet.

C. Accessory structures shall be erected and maintained only as accessories to the dwelling unit situated on the same lot. Except as permitted as a special use, no accessory structure shall be located in front of the rear line of the dwelling unit.

D. Dwelling units consisting of one story shall contain at least nine hundred (900) square feet of living space at grade level Dwelling units consisting of one and one-half stories or greater shall contain at least eight hundred (800) square feet of living space at grade level, with a total living space of at least one thousand (1,000) square feet. All dwelling units shall comply with the requirements contained within the definitional provisions of the term "dwelling" in Section 402 of this Zoning Ordinance

Adopted June 8, 2004

## ARTICLE 7

### "AA" HIGHER DENSITY RESIDENTIAL ZONE

#### 701 PURPOSE

This zone is to be used for residential purposes consisting primarily of one family dwelling units in a concentrated setting.

Definitions relative to uses of land and structures within this zone are located in Section 402 of this Ordinance.

#### 702 PERMITTED USES

A. One (1) family dwelling unit, including allowed accessory structures, such as private garages, which shall be erected and maintained only as accessories to the dwelling unit situated on the same lot, and which shall not involve the conduct of a business, unless authorized as a home occupation

B. Temporary structures for uses incidental to construction work, which structures shall be removed upon the completion or abandonment of the construction work.

C. Uses customarily incidental to any of the above uses when located on the same lot.

#### 703 SPECIAL USES

Special uses in this zone may be subject to site plan review and/or criteria and standards in excess of those typical regulations governing yards, lot sizes and the like.

A. Planned Unit Developments.

B. Home Occupations.

C. Previously used one family dwelling units, moved onto the lot.

#### 704 LOT REQUIREMENTS

A. No lot shall be created that has a lot area less than fifteen thousand (15,000) square feet. Every structure hereafter erected or structurally altered shall be

located upon a lot with a lot area of at least fifteen thousand (15,000) square feet per dwelling unit, unless the lot is a lawfully nonconforming lot.

B. All interior lots shall have a minimum width of one hundred (100) feet frontage on the street and all corner lots shall have a minimum width of one hundred (100) feet, provided, that lots on irregular and curving streets may have a minimum frontage of sixty five (65) feet if the width at the structure setback line is at least one hundred (100) feet.

C. The maximum lot coverage is thirty percent (30%).

D. There shall be a front yard setback of at least forty (40) feet. Where lots comprising forty percent (40%) or more of the frontage are developed with structures having an average front yard with a variation in depth of not more than six (6) feet, no structures hereafter erected or structurally altered shall project beyond the average front yard line so established; provided further that this regulation shall not be so interpreted as to require a front yard of more than fifty (50) feet.

E. There shall be a side yard setback of at least ten (10) feet.

F. There shall be a rear yard setback of at least ten (10) feet.

G. No yard, court, or other open space provided about any structure shall again be used as a yard or other open space for another structure for the purpose of complying with the provisions of this Ordinance.

## **705 STRUCTURE REQUIREMENTS**

A. Not more than one (1) dwelling unit, together with its accessory structures, shall be built on any lot.

B. No structure hereafter erected or structurally altered shall exceed two (2) stories or twenty eight (28) feet.

C. Accessory structures shall be erected and maintained only as accessories to the dwelling unit(s) situated on the same lot. Except as permitted as a special use, no accessory structure shall be located in front of the rear line of the dwelling unit(s).

D. Dwelling units consisting of one story shall contain at least nine hundred (900) square feet of living space at grade level. Dwelling units consisting of one and one-half story or greater shall contain at least six hundred (600) square feet of living space at grade level, with a total living space of at least nine hundred (900) square feet. All dwelling units shall comply with the requirements contained within the definitional provisions of the term "dwelling" in Section 402 of this Zoning Ordinance.

THIS PAGE INTENTIONALLY LEFT BLANK

**ARTICLE 8**

**“AM” MOBILE HOME RESIDENTIAL ZONE**

**AMENDED IN 2011 TO FOLLOW THE STATE  
MANUFACTURED HOUSING COMMUNITY MODEL  
ORDINANCE.**





## ARTICLE 9

### "F" SMALL FARM ZONE

#### 901 PURPOSE

This zone has as its primary purpose to promote and allow for agricultural pursuits.

Definitions relative to uses of land and structures within this zone are located in Section 402 of this Ordinance.

#### 902 PERMITTED USES

Except for a single-family detached dwelling unit and its permitted or special use accessory structures, all permitted uses in this zone are subject to site plan review.

- A. Agricultural uses, subject to provisions regarding the keeping of animals as contained in this Ordinance.
- B. Commercial greenhouses.
- C. Nursery and greenhouse stock and other products grown upon the premises may be retailed, provided that no separate retail store is erected, constructed, installed, or maintained for such purposes.
- D. One (1) family dwellings units.
- E. Campgrounds
- F. Accessory structures and uses customarily incidental to any of the above uses.

#### 903 SPECIAL USES

All special uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses.

- A. Home occupations.
- B. Previously used one (1) family dwelling units, moved onto the lot.
- C. Extraction of natural resources.
- D. Tower special use district.

#### **904 LOT REQUIREMENTS**

- A. No lot shall be created with a lot area less than five (5) acres. Every structure hereafter erected or structurally altered shall be located upon a lot with a lot area of at least five (5) acres, unless the lot is a lawfully nonconforming lot.
- B. All lots shall have a minimum lot width of three hundred thirty (330) feet and a minimum lot depth of three hundred thirty (330) feet.
- C. There is no maximum lot coverage requirement.
- D. There shall be a front yard setback of at least forty (40) feet.
- E. There shall be a side yard setback of at least twenty five (25) feet.
- F. There shall be a rear yard setback of at least fifty (50) feet.
- G. No yard, court, or other open space provided about any structure shall again be used as a yard or other open space for another structure for the purpose of complying with the provisions of this Ordinance

#### **905 STRUCTURE REQUIREMENTS**

- A. Not more than one (1) dwelling unit, together with its residential and agricultural accessory structures, shall be built on any lot.
- B. No structure hereafter erected or structurally altered shall exceed three (3) stories or thirty five (35) feet.
- C. Accessory structures shall be erected and maintained only as accessories to the dwelling unit(s) situated on the same lot. Except as permitted as a special use, no accessory structure shall be located in front of the rear line of the dwelling unit.

D. Dwelling units consisting of one story shall contain at least nine hundred (900) square feet of living space at grade level. Dwelling units consisting of one and one-half stories or greater shall contain at least eight hundred (800) square feet of living space at grade level, with a total living space of at least one thousand (1,000) square feet. All dwelling units shall comply with the requirements contained within the definitional provisions of the term "dwelling" in Section 402 of this Zoning Ordinance.

THIS PAGE INTENTIONALLY LEFT BLANK

## ARTICLE 10

### "B" BUSINESS ZONE

#### 1001 PURPOSE

This zone is intended to accommodate retail and service activities, as well as multiple dwellings. Such activities are best regulated and most viable if located in a compact and densely grouped setting due to the generation of a large volume of vehicular traffic. It is further the intent of this zone to promote safe and efficient traffic access to and within the zone and to minimize any adverse effects of such uses upon adjoining zoning districts or existing land uses.

Development permitted under the "B" Business Zone will service a much larger geographic setting than the boundaries of Whitehall Township. With its unique position as the principal entry point of the Whitehall-Montague area, the Holton-Whitehall Road/Colby Street/U.S. 31 interchange offers several zoning challenges. This area is seen as a prime growth setting for business, multiple dwellings, and related land uses, taking advantage of the freeway exposure, tourists, travelers, and the relatively close proximity of this interchange to the Muskegon metro area. Further, it is the Township's goal to avoid, in and around this interchange, the usual legacy of freeway interchanges -- the maze of vehicular turning movements, trucking services, garish signs, unsightly developments, and the like. It is the intent to make the best land use decisions possible for the land in this zone, as a responsibility the Township must confront, not only for its own residents, but also for municipalities outside its boundaries.

Definitions relative to uses of land and structures within this zone are located in Section 402 of this Ordinance.

#### 1002 PERMITTED USES

All permitted uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses.

A. Motels and Hotels.

B. Vehicle Sales and Service: Sales and service dealerships of new or a

combination of new and used: automobiles, mobile homes, boats, campers, motorcycles, or other off-road vehicles or recreational vehicles, provided that all outside sales areas shall be paved.

C. Eating and drinking establishments.

D. Offices for personal or business services, such as but not limited to financial institutions, real estate offices, and professional offices.

E. General retail stores whose principal activity is the sale of merchandise to the public. These include such establishments as household appliance stores, furniture stores, supermarkets, clothing stores, variety stores, and other retail stores similar to the above.

F. Personal service establishments performing services on the premises such as barber and beauty shops, shoe repair shops, self-service laundry and dry cleaning establishments, dry cleaning and laundry pick-up stations, and other personal service establishments similar to and compatible with the above establishments.

G. Outdoor uses or sales accessory to the business conducted on the premises.

H. Any accessory structure or mechanical use customarily incidental to the principal use.

### **1003 SPECIAL USES**

All special uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses.

A. Shopping centers.

B. Gasoline service stations, with or without convenience stores; and automatic or self-service car wash establishments.

C. Sales or sales and service dealerships of used motor vehicles, provided that all outside sales areas shall be paved and such dealerships shall not sell, make available for sale, or allow on the premises: inoperable vehicles, salvage vehicles, or used vehicle parts.

D. Recreational facilities such as movie theaters, bowling alleys, and miniature golf.

- E. Essential service facilities and uses.
- F. Planned unit developments.
- G. Multiple family and two (2) family dwelling units.
- H. Dwelling units above the first floor.
- I. Tower special use district.

#### **1004 LOT REQUIREMENTS**

- A. No lot shall be created with a lot area less than fifteen thousand (15,000) square feet. Every structure hereafter erected or structurally altered shall be located upon a lot with a lot area of at least fifteen thousand (15,000) square feet, unless the lot is a lawfully nonconforming lot.
- B. The minimum lot width shall be one hundred (100) feet.
- C. There is no maximum lot coverage.
- D. The front yard setback shall not be less than eighty five (85) feet or equal to the established setback lines, as determined by the Planning Commission, whichever is less.
- E. The side yard setback on each side shall not be less than ten (10) feet, except in the case of a corner lot, where the side yard setback on the right-of-way not designated the front lot line shall not be less than eighty five (85) feet. These minimums may be reduced to as little as zero (0) feet with the approval of the Planning Commission

#### **1005 STRUCTURE REQUIREMENTS**

No structure shall be located less than fifty (50) feet from any A, AA or AM zone.

#### **1006 OTHER REQUIREMENTS**

- A. Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the Planning Commission as a part of the site plan review.

B. All lighting shall be installed and maintained in such a manner as to confine the illumination source or divert glare to the property upon which the use is located and such that no glare or illumination shall adversely affect the welfare of an adjacent property.

C. Trash containers shall be enclosed on all sides by a fence, gate, or a structure aesthetically compatible with the development and surrounding property. The waste storage area shall be maintained free from litter and in a sanitary condition.

D. Heating, ventilation, or air conditioning (HVAC) units, storage tanks or similar appurtenances shall be properly screened.



## ARTICLE 11

### "M" LIMITED INDUSTRIAL ZONE

#### 1101 PURPOSE

This zone is intended to encourage and facilitate the development of research, warehouse, and light industrial activities in a setting conducive to public health, economic stability, growth, protection from blight, deterioration and non-industrial encroachment, and efficient traffic movement, including both employee and truck traffic. Regulations contained in this zone are designed to promote the development of industrial areas and industrial or research parks which will be compatible with one another and with adjacent or surrounding districts. Further, the regulations contained herein are intended to control residential or commercial uses which are incompatible with the primary permitted uses.

Definitions relative to uses of land and structures within this zone are located in Section 402 of this Ordinance.

#### 1102 PERMITTED USES

All permitted uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses.

- A. Non-manufacturing research and development establishments including laboratories, offices, and other related facilities.
- B. Warehousing and wholesale establishments dealing with non-toxic, low combustibility products.
- C. Essential services stations.
- D. Cafeteria facilities for employees.
- E. Dispensaries and clinics on the premises of and clearly incidental to any business, trade, or industry.
- F. Any use customarily incidental to the permitted principal use.
- G. Tower permitted district.

### 1103 SPECIAL USES

All special uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses.

A. Limited industrial establishments including those involving:

1. The assembly, fabrication, compounding, packaging, manufacture or treatment of such items as food products, candy, pharmaceuticals, cosmetics and toiletries, toys, novelties, electrical instruments and appliances, small metal, or rubber or molded products and the like.
2. The assembly, fabrication, compounding, packaging, manufacture or treatment of merchandise from previously prepared materials, such as cloth, paper, leather, plastics, metals, sheet metal, wood and wire.

B. Retail sales typically incidental to contractor's establishments which require a workshop and retail outlet or showroom as accessory uses, including:

1. Plumbing and electrical contractors.
2. Building material suppliers and wholesalers such as lumberyards, masonry products supply, and other similar uses.
3. Carpenter shops, including door, sash or trim manufacturing.
4. Jobbing and repair machine shops.
5. Plastic products forming and molding.
6. Printing and publishing.
7. Air conditioning and heating dealers including incidental sheet metal work.
8. Furniture upholstering and refinishing establishments.
9. Sign painting establishments.
10. Other uses similar to and compatible with the above uses.

C. Planned research or industrial parks.

D. Commercial television and radio towers and public utility microwave or television transmitting towers and their attendant facilities.

E. Planned unit developments.

F. Sexually oriented businesses.

#### **1104 LOT REQUIREMENTS**

A. No lot shall be created with a lot area less than ninety thousand (90,000) square feet. Every structure hereafter erected or structurally altered shall be located upon a lot with a lot area of at least ninety thousand (90,000) square feet, unless the lot is a lawfully nonconforming lot.

B. The minimum lot width shall be three hundred (300) feet.

C. The maximum lot coverage is fifty percent (50%).

D. Yard and Setback Requirements:

1. There shall be a front yard setback of at least eighty five (85) feet.

2. There shall be a side yard setback of at least forty (40) feet, except in the case of a corner lot where the side yard on the street shall not be less than the setback required for the front yard. These minimums may be reduced to as little as zero (0) feet with the approval of the Planning Commission

3. There shall be a rear yard setback of at least fifty (50) feet. This minimum may be reduced to as little as zero (0) feet with the approval of the planning commission.

4. No structure shall be located less than seventy five (75) feet from any A, AA, or AM zone.

#### **1105 STRUCTURE REQUIREMENTS**

No structure shall exceed three (3) stories or thirty five (35) feet as measured from the average finished grade at the front setback line unless the required front yard setback is increased by one (1) foot for every foot of height above thirty five (35) feet or unless excepted elsewhere herein.

## 1106 OTHER REQUIREMENTS

A. The storage of finished or unfinished materials, or any equipment or machinery necessary to the operation, is permitted, but all storage areas shall be effectively screened by a solid, uniformly finished wall or fence with a solid entrance and exit gates. Said wall or fence shall in no case be lower than the enclosed storage.

B. Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the Planning Commission as a part of the site plan review.

C. All lighting shall be installed and maintained in such a manner as to confine the illumination source or divert glare to the property upon which the use is located and such that no glare or illumination shall adversely affect the welfare of an adjoining property.

D. Trash containers shall be enclosed on all sides by a fence, gate, or a structure aesthetically compatible with the development and surrounding property. The waste storage area shall be maintained free from litter and in a sanitary condition.

E. Heating, ventilation, or air conditioning (HVAC) units, storage tanks or similar appurtenances shall be properly screened.

F. No establishment will be allowed that, as a result of their operation will produce noise or other environmentally adverse conditions or by-products. Standards applied will be as required by the Health Department or other governing agency.

## ARTICLE 12

### "FR" FORESTRY RECREATIONAL ZONE

#### 1201 PURPOSE

This zone is intended to protect and preserve dwindling land areas within the Township that are suitable for limited recreational purposes, as set forth in this Article 12. The Township desires to ensure that as the Township becomes increasingly developed for commercial and residential purposes, that there are sufficient open spaces suitable for recreational purposes and forest areas. In order that this may be maintained and encouraged, this Article 12 has been established, based upon forethought and a well-considered plan, and is designed to regulate and limit the locations of structures and the uses thereof, in order to protect the natural resources, natural habitats of wildlife, waterways and water bodies, forestry capabilities, public and private recreational uses, and the public health, safety, and welfare by, among other things, reducing the hardships and burdens imposed upon the people of the Township by the unnecessary or thoughtless destruction of such resources, the improper and wasteful use of such resources (including open and wooded lands), and the preservation of open spaces and recreational resources. In addition, this zone will help protect and preserve human, plant and animal life.

Definitions relative to uses of land and structures within this zone are located in Section 402 of this Ordinance.

#### 1202 PERMITTED USES

All permitted uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses.

A. Public and private areas for the development, protection, and conservation of open space, watersheds, water, soil, forest, and wildlife resources.

B. Drives and parking areas.

C. Golf courses (other than miniature golf), public and private parks, disc golf, nature preserves and sports fields (such as soccer, softball, etc.), sports courts (such as shuffleboard, basketball, and tennis), and skateboard parks.

D. Sustained forestry uses.

E. Accessory uses customarily associated with the permitted uses, such as caretaker residence, concession stands, clubhouses, and picnic pavilions.

### **1203 SPECIAL USES**

All special uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses. Such provisions are cross-referenced to the applicable section.

A. Essential service structures.

B. Campgrounds, including campgrounds designed to encompass recreational camping vehicles and tents.

C. Recreational trails: hiking, bicycling, snowmobiling, cross-country skiing and horseback trails, subject to the Planning Commission's findings that the location, improvement and maintenance of such trails will not cause significant environmental damage and that adjoining properties will not be adversely affected. Recreational vehicle trails will only be permitted upon the Planning Commission's finding that the following requirements are fully complied with:

1. The location and improvement of the proposed trail system is reasonably safe and will not cause significant environmental damage.
2. The system proposed for the trail maintenance is capable for implementation and is maintained.
3. The proposed trail system will not unreasonably affect adjoining property.
4. The proposed plan for operating the trail system, including hours of the day for use, safety, emergency facilities, regulation and control of trails and off-trail areas, trail relationship to available toilet and waste disposal facilities, is found by the Planning Commission to be adequate for environmental protection, health and safety of the trail users and the general community.
5. Assembly and rest areas shall include adequate parking areas, toilet

facilities, solid waste containers, assembly and rest areas, structures and their uses shall be approved by the Planning Commission, including any limitations or requirements found necessary to the purpose of this Ordinance by the Planning Commission.

D. Hunt, gun, dog, fishing, boating organizations and clubs and similar uses, subject to the following requirements:

1. All improvements and structures shall be found by the Planning Commission to not pose any health or safety hazards nor to pose significant damage to the environment.

2. Proposed plans for the operation, use and maintenance of the property and facilities do not pose hazards, adversely affect adjoining properties, nor adversely effect the environment.

3. No structure, parking area or other improvement less than one hundred (100) feet from any adjoining street or lot lines.

E. Riding stables.

F. Tower special use district.

#### **1204 LOT REQUIREMENTS**

A. No lot shall be created with a lot area less than five (5) acres. Every structure hereafter erected or structurally altered shall be located upon a lot with a lot area of at least five (5) acres, unless the lot is a lawfully nonconforming lot.

B. The minimum lot width shall be at least three hundred thirty (330) feet.

C. The maximum structure coverage shall not exceed five percent (5%).

D. Yard Requirements:

Note: Property users, owners, and developers are warned that Federal and/or State statute and/or regulation may impose other and more restrictive set back requirement in areas along or adjacent to watercourses within the Township. Compliance with the foregoing setbacks does not imply compliance with other governmental regulations as to setbacks.

1. There shall be a front yard setback of at least sixty (60) feet.
2. There shall be a side yard setback of at least thirty (30) feet except in the case of a corner lot where the side yard on the road or street side shall not be less than sixty (60) feet.
3. There shall be a rear yard setback of at least fifty (50) feet.

E. The provisions of this Section shall not apply to any lot or structure owned by the Township of Whitehall.

#### **1205 STRUCTURE REQUIREMENTS**

No structure shall exceed two (2) stories or twenty eight (28) feet in height.



## ARTICLE 13

### "OC" OPEN SPACE AND WATERBODY

#### CONSERVATION ZONE

##### 1301 PURPOSE

This zone recognizes that the principal use of certain open areas within the Township is and ought to be the development, management and utilization of the natural resource base possessed by these areas. In order that this may be maintained and encouraged, this Ordinance has established, based upon a well-considered plan, a zone designed to regulate the location of structures and the use of parcels and lots in order to protect the natural resources, natural habitats of wildlife, waterways, and waterbodies, agricultural capabilities, public and private recreation areas, and the public health, safety, and welfare by reducing the hardships and burdens imposed upon the people of the Township by the wanton destruction of resources, the improper and wasteful use of open land, wooded areas, and the periodic flooding and overflow of creeks and streams. In addition, this zone will help protect human, plant, and animal life, prevent or minimize material losses, and reduce the cost to the public of rescue and relief efforts occasioned by unwise occupancy or construction of structures in areas subject to periodic inundation, such areas being shown as floodplain by soil types as compiled by the U.S. Soil Conservation Service.

Definitions relative to uses of land and structures within this zone are located in Section 402 of this Ordinance.

##### 1302 PERMITTED USES

All permitted uses in this zone are subject to prior site plan review.

A. Public and private areas for the development, protection, and conservation of open space, watersheds, water, soil, forest, and wildlife resources.

B. A lot may be used for general and specialized farming and agricultural activities, provided that any parcel that is kept as idle cropland shall be maintained as to prevent soil erosion by wind or water.

C. Drives and parking areas.

D. Accessory structures incidental to the above uses.

### 1303 SPECIAL USES

All special uses in this zone are subject to prior site plan review. Criteria and standards in excess of those typical regulations governing yards, lot sizes and the like may be specified for certain uses.

- A. Game refuge, hunting club, park, camping grounds, playgrounds, or other recreational purposes.
- B. The extraction of natural resources, including the growing, stripping and removal of sod, provided that the stripped portion shall be seeded by fall of the same year in which it was stripped, so as to reduce the actual or potential erosion of soil by water or wind.
- C. Essential service structures.
- D. Single family dwelling units.
- E. Home occupations.
- F. Tower special use district.

### 1304 LOT REQUIREMENTS

- A. No lot shall be created with a lot area less than five (5) acres. Every structure hereafter erected or structurally altered shall be located upon a lot with a lot area of at least five (5) acres, unless the lot is a lawfully nonconforming lot.
- B. The minimum lot width shall be three hundred thirty (330) feet.
- C. The maximum lot coverage shall not exceed five percent (5%).
- D. Yard Requirements:

Note: Property users, owners, and developers are warned that Federal and/or State statute and/or regulation may impose other and more restrictive set back requirement in areas along or adjacent to watercourses within the Township. Compliance with the foregoing setbacks does not imply compliance with other governmental regulations as to setbacks.

1. There shall be a front yard setback of at least sixty (60) feet.

2. There shall be a side yard setback of at least thirty (30) feet except in the case of a corner lot where the side yard on the road or street side shall not be less than sixty (60) feet.

3. There shall be a rear yard setback of at least fifty (50) feet.

E. Preservation Of Environmental Quality And Flood Plains: In a flood plain, the construction or location of bridges, bleachers, or other outdoor equipment or appurtenances and the storage of materials and equipment is prohibited unless same would not cause any significant obstruction to the flow of or reduction in the impoundment capacity of the flood plain.

### **1305 STRUCTURE REQUIREMENTS**

Single family dwellings shall comply with the requirements of Section 605. Otherwise, there are no additional structure requirements

THIS PAGE INTENTIONALLY LEFT BLANK

**ARTICLE 14**  
**LAND DIVISION**

**1401 PURPOSE**

The purpose of this Article is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable Township ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

**1402 DEFINITIONS**

For purposes of this Article, certain terms and words used herein shall have the following meaning:

A. "Applicant" means: any person or other legal entity that holds an ownership interest in land whether recorded or not.

B. "Divide" or "Division" means: the partitioning or splitting of a lot, parcel or tract of land by the owner(s) for the purpose of sale or lease of more than one (1) year, or of development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. "Divide" and "Division" does not include a property transfer between two (2) or more adjacent lots, if the property taken from one (1) lot is added to an adjacent lot; provided further that any resulting lot shall not be considered a separate building site unless the lot conforms to the requirements of the State Land Division Act, and the requirements of other applicable township ordinances, including this Zoning Ordinance.

C. "Exempt split" or "exempt division" means: the partitioning or splitting of a parcel or tract of land by the owner(s) that does not result in one (1) or more parcels of less than forty (40) acres or the equivalent.

D. "Forty acres or the equivalent" means: either forty (40) acres, a quarter-quarter section containing at least 30 acres, or a government lot containing at least thirty (30) acres.

E. "Plat" means: a recorded plat as defined and authorized by the Michigan Land Division Act, PA 288 of 1967.

F. "Land Division Administrator" means: the person appointed by the Township Board to administer this Article, relative to applications for divisions of land.

#### **1403 DIVISION OF PLATTED LOTS**

Pursuant to Section 560.263 of Act 288, P.A. 1967, as amended, the Land Division Act, every division of a lot in a recorded plat shall be subject to the provisions of this Ordinance. The owner seeking approval to divide a lot shall file an application in affidavit form with the Land Division Administrator, which shall set forth the reasons for the proposed division and shall be accompanied by an illustrative sketch or drawing, showing original and proposed resulting dimensions. No building permit shall be issued, nor any structure construction commenced, until the suitability of land for safe installation of a septic tank and individual well has been approved by the County Health Department and until the division is approved by the Township Board. No lot in a recorded plat shall be divided into more than four (4) parts, and resulting lots shall not have a smaller lot area than permitted by the Township.

#### **1404 DIVISION OF UNPLATTED LAND**

A. Prior Approval Requirement For Land Divisions. Land in the Township shall not be divided without the prior review and approval of the Land Division Administrator, in accordance with this Ordinance and the Land Division Act; provided that the following shall be exempted from this requirement:

1. A parcel proposed as a recorded plat pursuant to the Land Division Act.
2. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act. See Section 1403.
3. An exempt split that results in parcels of twenty (20) acres or more if each lot is accessible and the parcel was in existence on March 31, 1997 or resulted from an exempt split under the State Act.

B. Application For Land Division Approval. An applicant shall file all of the following with the Land Division Administrator for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one (1) year, or for development:

1. A completed application on such form as may be approved by the Township Board.
2. Proof of ownership of the land proposed to be divided.
3. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
4. Proof that all standards of the Land Division Act and this Zoning Ordinance have been met.
5. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
6. A fee to cover the costs of review of the application and administration of this Zoning Ordinance and the Land Division Act.

C. Procedure for Review of Applications for Land Division Approval

1. The Land Division Administrator shall approve or disapprove the land division applied for within forty five (45) days after receipt of a complete application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
2. Any person aggrieved by the decision of the Land Division Administrator may, within thirty (30) days of said decision appeal the decision to the Township Board, which shall consider and resolve such appeal at its next regular meeting or session affording sufficient time for a twenty (20) day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
3. The Land Division Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.
4. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
5. The Township and its officers and employees shall not be liable for

approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

D. Standards for Approval of Land Divisions. A proposed land division reviewable by the Township shall be approved if the following criteria are met:

1. All parcels created by the proposed division(s) have a minimum lot area, width and depth as required by this Zoning Ordinance.
2. The ratio of depth to width of any parcel created by the division complies with Section 1405.
3. The proposed land division(s) comply with all requirements of this Ordinance and the State Land Division Act.
4. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

E. Consequences of Noncompliance With Land Division Approval Requirement

1. Any division of land in violation of any provision of this Zoning Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll. The Land Division Administrator shall refer the suspected violation or potential non-conformity to the county prosecuting attorney, and give written notice to the person requesting the division, and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney. The Township shall further have the authority to initiate injunctive or other relief, including the actual cost and attorney fees of the prosecution, to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Zoning Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto.
2. Pursuant to Section 267 of the Land Division Act, an unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefore, together with any damages sustained by the purchaser, recoverable in an action at law.



3. The remedies provided herein are in addition to those contained in Article 2 of this Zoning Ordinance.

#### **1405 LOT WIDTH TO DEPTH RATIO**

The depth of all lots created of record after the adoption of this Ordinance shall not exceed four (4) times the width of the lot. For purposes of this section, the measurement of lot width shall be taken along the frontage on the public street or other approved road. The measurement for depth, for purposes of this section, shall be taken from the street or road frontage to a point of the lot located farthest from the street or road frontage. The Planning Commission may permit, as a special use, a lot with a depth greater than four (4) times the width of the lot, as measured in the manner stated above, if the Planning Commission determines that the area in which the lot is located is not suitable for future development because of the presence of wetlands or sever topography or if such lot or parcel is located in a flood plain. In addition, as to lands in the F zone, the Planning Commission shall approve such a special use only if it determines that all of the following conditions have been satisfied:

A. The parcel is poorly suited for agricultural production due to existing soil conditions, slope, or the presence of natural vegetation, such as woodlots, brushland and wetlands. The Planning Commission, in making its determination, may consider facts such as, but not limited to, past and present uses of the parcel, past productivity, and the difficulty in making the parcel suitable for farming, including the presence of highly erodible land, as defined by the Soil Conservation Service.

B. There will be a minimal likelihood of conflicts arising between the residential use and the surrounding agricultural activities.

C. The permitting of residential use in the circumstances under consideration will not adversely affect the long-term plans and development policies of the Township.

#### **1406 SITE CONDOMINIUMS**

Pursuant to the authority of Section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all site condominium subdivisions shall meet the following requirements and procedures.

A. All site condominiums shall require site plan approval in accordance with this

Ordinance. In addition to information normally required in this Ordinance for site plan review, the following additional information shall also be included pursuant to site plan review, provided, however, site condominiums incorporating private streets shall also meet the applicable standards of Article 22. In addition to the information required in Article 16, the following shall also be included for site plan review:

1. A condominium subdivision plan as required in Section 66 of the Condominium Act.
2. Documented proof of review by the Muskegon County Road Commission, Health Department, Michigan Department of Transportation and Michigan Department of Natural Resources/Environmental Quality. Approval of the Drain Commissioner may also be required, in the discretion of the Planning Commission

B. All site condominiums shall meet the setback, lot and structure requirements of the zone in which it is located.

C. The Whitehall Township Clerk shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act. The master deed must ensure that Whitehall Township will not be responsible for maintenance or liability of the portions of the project and that all private streets will be properly maintained, that snow removal will be provided and that there is adequate access and turnaround for emergency vehicles. Responsibility for maintenance of stormwater retention areas, drainage easements, drainage facilities, lawn cutting and other general maintenance of common areas must be clearly stated.

D. The Whitehall Township Clerk shall be furnished with one (1) copy of all "as-built" drawings for review by the Township's engineer for compliance with all Township ordinances prior to issuance of any billing permits. Fees for this review shall be established by the Township Board.

#### **1407 COMMON AREAS AND UNDERGROUND UTILITIES**

As a condition of site plan and/or special use approval (as may be applicable), any proposed plat, site condominium, mobile home park or division of a parcel into more than three (3) sub-parcels for purposes of creating building sites, shall comply with the following requirements:

A. All utilities, including but not limited to telephone lines, electric lines, and cable TV lines, shall be located underground.

B. At least fifteen percent (15%) of the total area of the project shall be permanently dedicated for common open space and/or recreational use of all owners an/or occupants of the structures constructed, or proposed to be constructed, within the project. Streets, and lot setback areas shall not count towards the open space requirement. A reasonable number of parking spaces, accessory to and solely intended to promote the use of the common area shall count towards the open space requirement.

THIS PAGE INTENTIONALLY LEFT BLANK

## ARTICLE 15

### PLANNED UNIT DEVELOPMENTS

#### 1501 PURPOSE

The purpose of this Article is to address and control Planned Unit Developments ("PUD") within the Township.

#### 1502 DEFINITIONS

A. "Planned Unit Development ("PUD")" means: a tract of land which includes two (2) or more principal structures, developed under single ownership or control; the development of which is unique and of a substantially different character than that of the surrounding area, and where the specific requirements of a given zoning district may be modified. Such development may be based upon a plan which allows for flexibility of design not available under normal requirements otherwise applicable in that zone.

B. Also see Article 4 for other definitions.

#### 1503 PUDs – PLANNED UNIT DEVELOPMENTS

A PUD must comply with this Article. The provisions of this Article are intended to result in land use and development substantially consistent with the underlying zone, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Article to ensure appropriate, fair, and consistent decision-making. These PUD provisions are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based.

This Section provides enabling authority and standards for the submission, review, and approval of applications for PUDs as a special land use, pursuant to Article 17. It is the intent of this Article to authorize the consideration and use of PUD regulations for the following purposes:

A. To encourage the use of land in accordance with its character, features, and adaptability.

- B. To promote the conservation of natural features and fragile lands.
- C. To preserve important community resources.
- D. To encourage flexibility and innovation in land use and design.
- E. To promote the efficient use of land to facilitate a more economic arrangement of structures, circulation systems, land use and utilities.
- F. To promote the enhancement of housing diversity, shopping, traffic circulation, and recreational opportunities for the people of the Township.
- G. To promote and ensure greater compatibility of design and use between and among neighboring properties.

#### **1504 QUALIFYING CONDITIONS**

- A. In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of ten (10) acres.
- B. The PUD shall result in a recognizable and substantial benefit to the ultimate users and occupants of the project and to the community, where such benefit would otherwise be unfeasible or unlikely.
- C. PUD as Special Land Use.

1. Density and Dwelling Unit Computation. The maximum density for residential uses in any PUD shall not exceed that which would be permitted in a feasible Comparison Plan, prepared in accordance with Township regulations pertaining to the underlying zoning, except as provided in subparagraph C2 below. For the purposes of this Section, a Comparison Plan shall consist of a feasible layout of dwelling units which may be permitted by right in accord with the underlying zoning applicable to the proposed site.

In the case where the applicant proceeds in phases and develops only a portion of the total proposed development at one time, each phase shall consist of land use(s) planned and developed in such a way that the average of all completed phases shall not exceed the maximum average density for the entire development. This may be accomplished through the utilization of conservation easements, or other lawful means, as approved by the Township Planning Commission.

2. Open Space. Each PUD shall contain open space areas equal to a minimum of fifteen percent (15%) of the total site area. Such open space shall be maintained in perpetuity by the owner, owner's agent, condominium association or owner's association and shall be set aside for the common use of the home or lot owners within the PUD, with recorded assurances satisfactory to the Township Planning Commission that the required open space shall be properly maintained in perpetuity. In any such recorded assurances, the Township shall be identified as having the right, but not the obligation, to enforce the conditions, covenants and restrictions placed on the open space.

To the extent that the proposed development provides open space as defined in this section in excess of fifteen percent (15%) of the total site area, the maximum density of the development may be increased. For the purposes of this section, for each acre of additional open space as defined herein in excess of fifteen percent (15%) of the total proposed site area, the overall density of the project may be increased by one percent (1%) up to a maximum of one hundred twenty percent (120%) of the density provided in the feasible Comparison Plan.

For purposes of this section, open space shall be considered to be only those areas having a minimum dimension fifty (50) feet by one hundred (100) feet. Land in streets, sidewalks, parking areas or in required yard or setback areas shall not be considered as open space. Open space areas may include open air recreational uses and/or unimproved natural areas. The Planning Commission shall have the discretion to approve alternative open space uses, such as public or semi-public recreational use.

3. Permitted Uses Within a PUD: The Planning Commission shall permit principal and/or accessory uses, and may permit any special land uses, which are authorized in either the underlying zone or the corresponding zones as set forth below. Such uses must be compatible with the design principles and purposes of this section and the land uses in the general vicinity of the proposed project.

a. Uses that may be allowed in a PUD in the A zoning district are limited to those allowed in the A and AA zones.

b. Uses that may be allowed in a PUD in the AA zoning district are limited to those allowed in the A and AA zones.

c. Uses that may be allowed in a PUD in the B zoning district are limited to those allowed in the B zones.

d. Uses that may be allowed in a PUD in the M zoning district are limited to those allowed in the M and B zones.

#### D. Lot and Other Requirements

1. Unless specifically waived by the Planning Commission through the provisions of D(2) below, all regulations of the underlying zone prior to the PUD request relative to lot size, lot width, yard area, lot coverage, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply. In projects with more than one (1) underlying zone, the regulations of the least restrictive zone shall apply.

2. Consistent with the PUD concept, and to encourage flexibility and creativity in development, departures from the regulations outlined in the immediately preceding D(1) may be granted at the discretion of the Planning Commission as part of the approval of a PUD. Such departures may be authorized if there are features or planning mechanisms incorporated into the project which would achieve the objectives of each of the regulations from which a departure is being requested.

3. The stages or phases of any PUD development shall be so structured and scheduled that, if later stages or phases of the development are not implemented, the initial stage(s) shall be consistent with the provisions of this section, and shall not detract from the feasibility of developing the remaining portion of the subject PUD area in an appropriate and desirable manner.

4. Streets within the PUD, if any, shall conform to Article 22.

5. The proposed location and arrangement of structures shall not have a detrimental effect on residents of existing developments in the vicinity of the proposed PUD. Open space shall be used as a transitional device to buffer surrounding uses, as appropriate.

#### **1505 PUD DESIGN CONSIDERATIONS**

A proposed PUD shall take into account the following specific design considerations, which are necessary to ensure compliance with all applicable



regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.

- A. Perimeter setbacks.
- B. Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- C. Underground installation of utilities.
- D. Separation of pedestrian and bicycle paths from vehicular traffic.
- E. Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- F. Noise reduction and visual screening mechanisms from adjoining residential uses.
- G. Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- H. Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of such facilities, on adjoining properties and uses, of noise, glare, vibration, and odor emanating from the proposed PUD.
- I. Screening and buffering with respect to dimensions and character.
- J. Yard areas and other open space.
- K. Density and intensity of development expressed in terms of percent of gross and net land area coverage and/or gross and net housing units per acre and the height of structures.
- L. The preservation of natural resources and natural features.

#### **1506 APPLICATION AND PROCESSING PROCEDURES**

The procedure for application, review and approval of a PUD shall be as follows:

- A. Prior to the submission of an application for Planned Unit Development, the

applicant shall meet with the Zoning Administrator, and/or such consultants as deemed appropriate. The applicant shall present at such conference, a sketch plan of the Planned Unit Development, and the following information:

1. A legal description of the property in question;
2. The total number of acres to be included in the project;
3. A site analysis indicating all known natural resources and natural features and the most appropriate areas for development.
4. A statement of the approximate number of residential units and/or the approximate number, type and square footage of non-residential units;
5. A Comparison Plan indicating the maximum number of dwelling units that may be developed on the site under the terms of the existing Zoning Ordinance, taking into account unbuildable areas.
6. The approximate number of acres to be occupied and/or devoted to or by each type of use;
7. Departures from the regulations of the Ordinance which may be requested;
8. The location and number of acres to be preserved as open space or recreation space; and
9. The benefits that are expected to result from the adoption of the PUD provisions pertaining to the subject site.
10. A lighting plan, describing the location and illumination of all outdoor lighting in sufficient detail to allow the Planning Commission to determine the extent of any adverse effect on neighboring lots or possibly motorists.

B. Following the above conference (11) copies of a Special Land Use Application for a PUD and site plan shall be submitted. The submission shall be made to the Zoning Administrator, who shall forward it to the Planning Commission for consideration at a regular or special meeting. The plan shall be prepared by a Licensed Professional Engineer, Community Planner or Architect, and shall be accompanied by an application form and fee as determined by the Township Board. The site plan shall also contain the information required by this Article, together with any additional information needed to fully describe the proposed PUD, including a narrative describing the nature and concept of the project; the

proposed density, number, and types of dwelling units if a residential PUD; a statement describing how the proposed project meets the objectives of the PUD, and a description of the legal mechanisms and structures proposed to assure the perpetual maintenance of all open space proposed.

C. The Planning Commission shall review the preliminary site development plan, shall make reasonable inquiries of the applicant and schedule the application for public hearing pursuant to this Ordinance.

#### **1507 STANDARDS FOR PUD FINAL SITE DEVELOPMENT PLAN APPROVAL**

Following the public hearing, the Planning Commission shall either approve, deny, or approve with conditions the final site development plan. In making its decision, the Planning Commission shall find that the proposed PUD meets the intent of the PUD District and the following standards:

A. The Site Plan Approval Standards set forth in this Ordinance.

B. Ingress and egress to the property and proposed structures, with particular reference to motor vehicle and pedestrian safety and convenience, traffic flow and control, and access in cases of fire, catastrophe, or emergency.

C. Off-street parking and loading areas where appropriate, with particular attention to noise, glare, and odor effects of each use in the plan on adjoining properties and properties in the proposed development.

D. Sewer, water, and storm drainage with reference to locations, availability, and compatibility.

E. Screening and buffering with reference to type, dimensions, and character.

F. Signs, if any, and their proposed lighting relative to glare, traffic safety, economic effect, and compatibility and harmony with adjoining properties.

#### **1508 PUD CONDITIONS AND SAFEGUARDS**

A. In approving a PUD Special Land Use, the Planning Commission may impose reasonable conditions, which include but are not limited to conditions necessary to: ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land, and

to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

B. The conditions imposed with respect to the approval of a PUD Special Use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are unchanged. The Final Site Development Plan, as approved, shall act as a restriction upon the PUD. The PUD must conform with the Final Site Development Plan and no Special Use Permit or Billing permit shall be issued for any improvements that are not in compliance with said Plan.

#### **1509 PERFORMANCE GUARANTY**

In authorizing a PUD, the Planning Commission may require that a temporary or permanent cash deposit, certified check, performance bond, letter of credit, and/or other guaranty acceptable to the Planning Commission, in such amount and upon such terms as the Planning Commission shall deem appropriate, be furnished by the applicant or property owner or both, to insure continued compliance with the terms of this Ordinance, the terms and conditions of the Special Use Permit approving the PUD, and with any other requirements related to any construction or improvement of any lot authorized by such PUD approval. Any such financial guaranty shall be deposited with the Township Treasurer prior to the issuance of the Special Use Permit authorizing the PUD. As work progresses, the Planning Commission may authorize a partial rebate in or reduction of the amount of any such financial guaranty.

## 1510 COMMENCEMENT OF CONSTRUCTION

Construction of a PUD on a substantial and material basis must be started within one (1) year from the effective date of the approval of the Special Land Use Application. This time limit may be extended one (1) year upon application to the Planning Commission if it is demonstrated that substantial progress is being made in completing plans and securing financing. In the case of a multiple-phase PUD, the beginning construction of a phase shall satisfy the requirements of this paragraph even though the total PUD may be a number of years from completion.

This time limit may be extended by the Planning Commission annually for a cumulative total of four (4) years, if it is determined by the Planning Commission that conditions beyond the applicant's control have caused the need for the extension, and taking into consideration any changed facts or circumstances.

THIS PAGE INTENTIONALLY LEFT BLANK