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CHAPTER 1 TITLE, PURPOSE, SCOPE AND LEGAL BASIS
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SECTION 1.00 TITLE

This Ordinance shall be known and may be cited as the "Ensley Township Zoning Ordinance", "this Ordinance", "the Ordinance", or phrased in similar fashion. In all cases, such terms and phrases shall refer to the Ensley Township Zoning Ordinance.

SECTION 1.01 PURPOSE

- A. This Ordinance is based upon the Ensley Township Master Plan and provides for the establishment of zoning districts and district uses, standards, and regulations designed to promote the public health, safety and general welfare; to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; to conserve natural resources and energy, to meet the needs of the State's citizens for food, fiber and other natural resources, places of residence, recreation, agriculture, industry, trade, service and other uses of land; to insure that uses of land shall be situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties.
- B. This Ordinance is adopted with reasonable consideration, among other things, of the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

SECTION 1.02 SCOPE

- A. Zoning affects all structures and land uses within the Township.
- B. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Township is a party.
- C. Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, or land; the height of buildings or structures; lot coverage; lot areas; yards or other open spaces; or any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.

SECTION 1.03 LEGAL BASIS

This Ordinance is enacted pursuant to the Township Rural Zoning Act, Act 184 of the Michigan Public Acts of 1943, as amended.

SECTION 1.04 REPEAL

Any Ordinance or any provision of any Ordinance inconsistent with the terms hereof shall be and is hereby repealed. This Ordinance replaces the Ensley Township Zoning Ordinance adopted June 4, 1985, as amended.

SECTION 1.05 SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance shall be found to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Ordinance which shall be in effect.

SECTION 1.06 UPDATES AND DATE STAMPING ORDINANCE AMENDMENTS (Amended 5/9/2017)

The Michigan Zoning Enabling Act (Act 110 of 2006) requires that Michigan Townships revisit and potentially update Master Plans and Zoning Ordinances at minimum of every five years and demonstrate that said revisits/updates are documented. Ensley Township has chosen to be more timely and thus revisit/update as needed or requested by the Township Board and will document any changes with a date stamp in the following format: (Amended Month Year).

Date stamps can be at the individual line, paragraph, or section level. A date stamp at the section level implies that a complete rewrite of that section occurred and the stamp should be on the header. All older date stamps within that section should be removed at approval time. A date stamp at a paragraph level implies that only that paragraph of a section was updated and any older date stamps within that paragraph should be removed at approval time. A date stamp within an individual sentence implies that only that sentence was updated.

SECTION 1.07 TO 1.99 RESERVED FOR FUTURE USE

CHAPTER 2 DEFINITIONS

SECTION 2.00 RULES APPLYING TO TEXT

The following listed rules of construction apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control. Illustrations are provided for general reference only.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. 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.
- E. A "building" or "structure" includes any part thereof.
- F. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. "Or" indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - 3. "Either..or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning customarily assigned to them.

SECTION 2.01 DEFINITIONS - A

ACCESSORY BUILDING

A subordinate building on the same premises with a main building, occupied by or devoted to an accessory use; for example, a private garage used for the housing of automobiles used by the residents of a dwelling to which the private garage is accessory. Where an accessory building is attached to a main building, such accessory building shall be considered part of the main building and not as a separate accessory structure. (Amended 05092017)

ACCESSORY USE, OR ACCESSORY

A use of a zoning lot which is clearly incidental and subordinate to the principal use of the lot and customarily found in connection with the principal use. When "accessory" is used in this text, it shall have the same meaning as accessory use.

ADULT BOOKSTORE

An enclosed building used for the sale of motion picture films, video cassettes, magazines, posters, and other printed material, or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas,"

as defined in this Ordinance, for sale to patrons therein.

ADULT CARE CENTER (See CHILD and ADULT CARE CENTERS)

ADULT LIVE ENTERTAINMENT THEATER

An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of "specified anatomical areas," individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas," or individuals conducting "specified sexual activities."

ADULT MOTION PICTURE THEATER

An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Ordinance, for observation by patrons therein.

ADULT USES

Uses whose primary business is for an adult bookstore, adult live entertainment theater, adult motion picture theater, or a combination thereof.

AGRICULTURE

The cultivation, tilling or use of soil for the purpose of growing or storing crops thereon or use of land for the purpose of animal or poultry husbandry, including the preparation and marketing of agricultural products for commercial purposes. All reasonable dust, spray drift, water drift, noise, odors, and other conditions normally associated with the foregoing agricultural uses are considered a part of the agriculture and are permitted.

ALLEY

A dedicated public way other than a street which provides only secondary access to abutting property and is not intended for general traffic circulation.

ALTERATIONS

Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building, or the removal of a building from location to another.

AUTOMOTIVE SALES AREA

An area used for the display, sale, or rental, but not for the repair, of new or used motor vehicles, boats, trailers, farm equipment, construction equipment, or mobile homes in operable condition.

AUTOMOTIVE REPAIR SHOP

A garage, building, or area where repairs of motor vehicles, boats, trailers, farm equipment, or similar equipment is made for a fee.

AUTOMOBILE SERVICE STATION

A retail business primarily oriented to the sale of gasoline for use by automobiles and light trucks, with ancillary sales of sundry goods and food products typically consumed on a daily basis. An automobile service station may include bays for the light servicing of vehicles such as oil changes, battery and tire replacements, belt replacements, engine tune-ups, and similar light repair services.

AVERAGE GRADE (See Also GRADE)

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

SECTION 2.02 DEFINITIONS - B

BASEMENT [*Illustration Provided*]

That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

BED AND BREAKFAST

A single-family dwelling occupied by the owner or permanent tenant in which overnight lodging and breakfast are made available to transient guests for a fee. Individual guest rooms do not contain kitchen (cooking) facilities and may or may not contain private bathrooms. Guest stays are short-term in duration, generally one (1) week or less. Bed and breakfast shall not mean hotel or motel.

BERM [*Illustration Provided*]

A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

BILLBOARD or SIGNBOARD (See Chapter 14, SIGNS)

BODY SHOPS (See AUTOMOTIVE REPAIR SHOP)

BOARD

When used in this Ordinance, the term "Board" shall mean the Township Zoning Board of Appeals as authorized by this Ordinance pursuant to the Township Rural Zoning Act, Michigan Public Act 184 of 1943, as amended.

BOARDING HOUSE or ROOMING HOUSE

A dwelling having one kitchen and used for the purpose of providing meals and/or lodging for compensation to more than two persons other than members of the family occupying such dwelling.

BUFFER STRIP [*Illustration Provided*]

A strip of land required between certain properties, land uses, and Districts and reserved for plant material, berms, walls, or fencing to serve as a visual and/or noise barrier.

BUILDING

A structure erected on site, pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING CODE

The currently adopted Township code or codes governing the erection and maintenance of buildings.

BUILDING HEIGHT [*Illustration Provided*]

The vertical distance measured from the top of the main or ground level foundation wall, whichever is lowest, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs.

BUILDING INSPECTOR (See ZONING ADMINISTRATOR)

The person designated by the Township Board to administer the provisions of the adopted Building Codes for Ensley Township. The Building Inspector may also serve as the Township Zoning Administrator.

BUILDING LINE

A line formed by the eave of the building, or the most horizontal appendage of the building; and for the purposes of this Ordinance, a minimum building line is the same as the front setback.

SECTION 2.03 DEFINITIONS - C

CASH VALUE (see TRUE CASH VALUE)

CERTAIN RESIDENTIAL DEVELOPMENTS AS PLANNED UNIT DEVELOPMENTS

- A. In the A-R, R-L and R-S Districts, no subdivision (as defined in this section) shall be established or created and no lot, site condominium unit or parcel of land in a subdivision shall be sold, conveyed, transferred or otherwise established, nor shall any building permit or zoning approval permit be issued, for any land in a subdivision unless such subdivision shall have been approved by the Township as a Planned Unit Development (PUD).
- B. For Purposes of this section, a “subdivision” means any land or property, wherever located, improved or unimproved, which is divided, split, conveyed, proposed to be divided, split or conveyed, or developed as a site condominium or recorded plat, for the purpose of sale, transfer or building construction, into or including a number of lots, parcels of land, site condominium units or other interests in land, or any combination thereof, whether in whole or in part, as provided in Section 3.46 or which is greater than that permitted by right in the A-R, R-L and R-S Districts. For purposes of this section, “subdivision” also includes any lands, whether contiguous or not, if the number of lots, parcels of land, site condominium units or other units of interests, of more than ten (10) in the A-R, R-L and R-S Districts, are offered as part of a common promotional plan for sale or conveyance or where the subdivision is being developed or is offered for sale, transfer or building construction by one developer, or more than one developer, whether acting individually or in concert.
- C. If parcels of land are contiguous or if they know, designated or advertised as a single or common development, or by a single or common name, the land shall be deemed to be offered for disposition as part of a common promotional plan and shall accordingly be deemed to be part of a subdivision, if the total number of lots, parcels of land, site condominium units or other interests, or any combination thereof, exceeds ten (10) in the A-R, R-L and R-S Districts.
- D. For purposes of this section, “contiguous” land means any additional land adjacent to or adjoining the subdivided land included in any previous subdivision.

- E. If a parcel of land is created, divided or split from or out of another parcel of land, and if either or both of such parcels are further divided, split of site condominium units are created, or if any such action is proposed, within seven years after the recording of the first land division or split, the each parcel shall be considered a subdivision for purposes of this section, and accordingly, each parcel shall be subject to planned unit development approval, if the number of lots, parcels of land or site condominium units created or developed from or out of such parcels or either of them exceeds ten (10) in the A-R, R-L and R-S Districts.

CERTIFICATE OF OCCUPANCY - ZONING

A document signed by an authorized Township official as a condition precedent to the commencement of a use or the construction of a structure or building which acknowledges that such use, structure or building complies with the provisions of the Zoning Ordinance.

CHILD and ADULT CARE CENTERS

Any facility other than a private residence, licensed by the Michigan Department of Social Services, in which one (1) or more children or adults are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child or adult. Child and adult care centers include facilities which provide care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

Child and adult care centers do not include Sunday schools, vacation Bible schools, or religious classes that are conducted by a religious organization where children or adults are in attendance for not greater than four (4) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children or adults are cared for not greater than four (4) hours, while persons responsible for the children or adults are attending religious classes or services.

COMMERCIAL STORAGE WAREHOUSES

Any building or buildings used primarily as a commercial business for the storage of goods and materials.

CONDOMINIUM (CONDOMINIUM PROJECT)

A development subject to Michigan Public Act 59 of 1978, as amended. A condominium project shall be equivalent to Subdivision as used in this Ordinance and Subdivision Regulations.

CONVALESCENT OR NURSING HOME

A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and personal medical care.

CONVENIENCE STORE

A retail outlet providing food and sundry products typically consumed on a daily basis, with or without ancillary gasoline sales, but not including vehicular servicing except for an air pump. Customer visits to the store are short term in duration, generally less than ten (10) minutes per trip.

COUNTY BOARD

The County Board of Commissioners of Newaygo County.

SECTION 2.04 DEFINITIONS - D

DISTRICT

A Zoning District in which land and buildings are regulated by use, dimensional standards, and various placement criteria.

DRIVE-THROUGH FACILITIES

Any facility used in connection with a business establishment so developed that its retail or service character provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food or merchandise carry-out.

DWELLING, MULTIPLE-FAMILY

A dwelling, or a portion of a building, designed exclusively for occupancy by three (3) or more families living independently of each other.

DWELLING, SINGLE FAMILY

A detached dwelling designed exclusively for and occupied exclusively by one (1) family.

DWELLING, TWO-FAMILY (DUPLEX)

A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

DWELLING UNIT

One (1) room or suite of two (2) or more rooms designed for use and occupancy by one (1) family for living and sleeping purposes, with housekeeping facilities.

SECTION 2.05 DEFINITIONS - E

ERECTED

Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, etc.

ESSENTIAL PUBLIC SERVICES

The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission, distribution, collection, communication, supply or disposal systems, including towers, antennas, satellite dishes, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

EXCAVATION

Any breaking of ground, except common household gardening, farming operations, and ground care.

SECTION 2.06 DEFINITIONS - F

FAMILY

One person residing in a household; or two (2) or more persons related by blood, heterosexual marriage, adoption or

legal arrangement, including foster children and servants residing together; or three (3) or fewer unrelated persons residing together as one housekeeping unit in a dwelling unit.

FAMILY DAY CARE HOMES

Any private residence in which the operator permanently resides as a member of the household, registered with the Michigan Department of Social Services, in which one (1) but less than seven (7) minor children or adults are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children or adults related to an adult member of the family by blood, marriage, or adoption. Family day-care homes includes homes that give care to unrelated minor children or adults for more than four (4) weeks during a calendar year.

FARM

A contiguous parcel of land of not less than ten (10) acres in area, directly farmed or used for commercial agriculture by the owner-operator, manager, or tenant farmer or with assistance of members of the household or hired employees. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, products, or animals, or used for the operation of the farm. Farms may include greenhouses, nurseries, orchards, hatcheries, dairy farms, poultry farms, hog farms, commercial feedlots, apiaries, truck farms, and forestry operations.

Fish hatcheries, stockyards, recreation parks, stone quarries, gravel, dirt or sand pits, keeping fur bearing animals or game, kennels, stables, riding academies, or mineral extraction, are not considered farm uses.

FLOOD

Is a land area which on the basis of available information is subject to a one (1) percent or greater chance of flooding in any given year.

FLOOR AREA, GROSS (GFA)

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the exterior faces of exterior walls, but excluding porches, patios, terraces, breezeways, carports, verandas, garages, attics, and basements.

FLOOR AREA, USABLE (UFA)

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; or area used in a dwelling unit for living purposes. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls. Useable floor area must have at least five (5) feet clear height between floor and ceiling.

FLOODPLAIN

Is any land area susceptible to being inundated by water from any source.

SECTION 2.07 DEFINITIONS - G

GARAGE (Refers to Private Garage)

An accessory building used primarily for the storage of passenger vehicles and for not more than one (1) truck of a rated capacity not to exceed one (1) ton.

GOVERNING BODY

The Township Board of Ensley Township.

GRADE (See also AVERAGE GRADE)

The gradient, the rate of incline or decline expressed as a percent. For example, a rise of twenty-five (25) feet in a horizontal distance of one hundred (100) feet would be expressed as a grade of twenty-five percent.

GREENBELT

A strip of land of definite width and location reserved for the planting of shrubs, trees, or grasses to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

GROUP DAY CARE HOMES

Any private residence in which the operator permanently resides as a member of the household, licensed by the Michigan Department of Social Services, in which more than six (6) but not more than twelve (12) minor children or adults are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children or adults related to the operator of the home by blood, marriage, or adoption. Group day-care homes includes homes that give care to unrelated minor children or adults for more than four (4) weeks during a calendar year.

SECTION 2.08 DEFINITIONS - H

HEIGHT (See also BUILDING HEIGHT)

The vertical distance measured from the average grade to the highest point of a structure.

HOME OCCUPATION (See Chapter 3, GENERAL PROVISIONS - HOME OCCUPATIONS)

An occupation or profession that is clearly a customary, incidental, and secondary use of a residential dwelling unit.

HOME BASED BUSINESS (Amended 6/22/2016)

An occupation or profession that is similar to a Home Occupation, but being slightly more intensive. Nevertheless, a home based business must still be customarily, incidental and secondary to the single-family residential use of the property on which the business and dwelling is located. Home based businesses include the following:

- Building trades
- Woodworking
- Hobby shop sales for items made on the property.
- Upholstery
- Sewing
- Welding
- Auto body repair
- Dance/gymnastics
- Small engine repairs
- Small appliance repair

- Landscaping services
- Accounting/tax preparation
- Law office
- Taxidermy
- Auto repair
- Warehouse for direct sale items
- Beauty shop/salons
- Computer services/repair
- Well drilling
- Shooting ranges for concealed pistol permits
- Animal processing

SECTION 2.09 DEFINITIONS - I

INOPERATIVE VEHICLES

Any motor vehicle which can no longer propel itself.

INSTITUTIONAL USE (Also PUBLIC USE)

Uses under the ownership or control of a governmental entity or agency and uses often referred to as quasi-public including churches, private schools teaching academic subjects comparable to the public school system, hospitals, convalescent and nursing homes, private parks, and uses of a similar nature.

SECTION 2.10 DEFINITIONS - J

JUNK

Any worn out or discarded materials including, but not necessarily limited to, scrap iron and other metals, waste paper, rags, rubber, tires, bottles, inoperable motor vehicles and parts, construction material, household wastes, garbage, discarded appliances, and yard debris.

JUNK YARD (SALVAGE YARD)

An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber, tires, and bottles. A "junk yard" or "salvage yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

SECTION 2.11 DEFINITIONS - K

KENNEL, COMMERCIAL

Any lot or premise on which three (3) or more dogs, cats, or other household pets, six (6) months of age or older, are either permanently or temporarily boarded for commercial purposes. A kennel shall also include any lot or premises where household pets are bred or sold for commercial purposes.

SECTION 2.12 DEFINITIONS - L

LOADING SPACE

An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

LOT [*Illustration Provided*]

A parcel, vacant land, occupied land, or land intended to be occupied by a main building and accessory buildings, or utilized for the principal accessory use(s) together with yards and open spaces required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of the Michigan Public Acts of 1978, as amended, designed and intended for separate ownership and use.

LOT, CORNER [*Illustration Provided*]

Any lot having at least two (2) contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than one hundred thirty-five (135) degrees.

LOT, INTERIOR [*Illustration Provided*]

A lot other than a corner lot or through lot.

LOT, THROUGH [*Illustration Provided*]

Any interior lot having frontage on two parallel streets. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.

LOT, WATERFRONT

A lot having a property line abutting a shoreline.

LOT AREA [*Illustration Provided*]

The total horizontal area within the lot lines.

LOT COVERAGE [*Illustration Provided*]

The part of the lot occupied by any building, including accessory buildings.

LOT DEPTH [*Illustration Provided*]

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

LOT LINES [*Illustration Provided*]

The lines bounding a lot as defined herein:

A. FRONT LOT LINE

In the case of an interior lot, it is the line separating the lot from the street. In the case of a through lot, it is that line separating said lot from either street. In the case of a lot having frontage on a body of water, the front lot line shall be considered that lot line on the waterfront.

B. REAR LOT LINE

That lot line opposite the front lot line. In the case of a lot which is pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.

C. SIDE LOT LINE

Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

LOTS OF RECORD

Any parcel of land, the dimensions of which are shown on a document or map on file with the Newaygo County Register of Deeds as of the date of adoption of this Ordinance or any relevant amendment thereto which would affect such lot, which lot actually exists as shown or any part of a parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH [*Illustration Provided*]

The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

SECTION 2.13 DEFINITIONS - M

MAIN BUILDING

A building in which is conducted the principal use of the lot upon which it is situated.

MANUFACTURED HOME

A transportable, factory-built home, designed to be used as a year-round residential dwelling.

MANUFACTURED HOME PARK

A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park.

MASSAGE CLINIC (See also MASSAGE PARLOR, ADULT MASSAGE PARLOR)

Is any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment or any other treatment or manipulation of the human body occurs as part of or in connection with "Specified Sexual Activities" or where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas"; provided however, this provision shall not apply to a medical doctor, osteopathic physician, chiropractor, or similar medical professional licensed by the State of Michigan to perform medical procedures on the human body.

MASTER PLAN

The Master Plan currently adopted by Ensley Township, including graphic and written proposals, indicating the physical development of the Township, and includes any unit or part of such plan and any amendment to such plan.

MEDICAL MARIHUANA DISPENSARY (Amended 11/9/2010)

Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, grown, processed, delivered, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
2. A qualifying patient (as defined by Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
3. Members of the public.

A medical marihuana dispensary shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana or such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility.

A medical marihuana dispensary shall not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualified patients (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended) so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and it is done in full compliance with not only this Ordinance and any other applicable Ensley Township ordinances, but also all applicable Michigan and federal laws and regulations.

MOBILE HOME

A portable unit built without a permanent foundation to be towed on its own chassis comprised of frame and wheels, designed to be connected to utilities at a site and use as living quarters.

MOTEL/HOTEL

A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking spaces located on the lot and designed for, or occupied by, automobile travelers. The term shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

SECTION 2.14 DEFINITIONS - N

NONCONFORMING BUILDING

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto and which does not conform to the provisions of the Zoning Ordinance in the District in which it is located.

NONCONFORMING USE

A use or activity which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto and which does not conform to the use regulations of the District in which it is located.

SECTION 2.15 DEFINITIONS - O

OFF-STREET PARKING LOT

A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three (3) vehicles.

OPEN AIR BUSINESSES

Retail sales establishments operated substantially in the open air, including:

- A. Bicycle, utility truck or trailer, motor vehicles, boats, or home equipment sales, repair or rental services.
- B. Outdoor display area and sale of motor homes, recreation vehicles, manufactured homes, farm equipment, construction equipment, snowmobiles, swimming pools and similar activities.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement parks or similar recreational uses (transient or permanent).

ORDINARY HIGH WATER MARK OR SHORELINE

The line between upland and bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

SECTION 2.16 DEFINITIONS - P

PARKING SPACE [*Illustration Provided*]

An area of definite length and width used for vehicular parking. Said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting personal services that are performed primarily on the premises. Examples include barber shop, hair salon, tanning salon, spa, fitness club, nail salon, and other uses offering personalized services consistent with the above uses.

PLANNED UNIT DEVELOPMENT

A development of land that is under unified control and is designed and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

PLANNING COMMISSION, OR COMMISSION

The Ensley Township Planning Commission.

PRIMARY ROAD

A County Primary roadway as designated in the Ensley Township Master Plan or by the Newaygo County Road Commission. For purposes of this Ordinance only, a State Trunkline shall also be considered as a County Primary.

PRINCIPAL USE

The primary use to which the premises is devoted.

PRIVATE ROAD (STREET) - (See Section 3, Private Road/Street Regulations)

PUBLIC UTILITY

A person, firm, corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

SECTION 2.17 DEFINITIONS - Q (Reserved for future use)

SECTION 2.18 DEFINITIONS - R

RECREATIONAL VEHICLE OR EQUIPMENT

Vehicles or equipment used primarily for recreational purposes. For the purpose of this Ordinance, recreational vehicle shall mean:

- A. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper.
- B. Boats and jet skis and trailers designed to transport boats and jet skis.
- C. Snowmobiles and trailers designed to transport snowmobiles.
- D. Off-road vehicles and trailers designed to transport off-road vehicles.
- E. Pop-up tent and camper trailers.
- F. Other similar vehicles deemed by the Zoning Administrator to be a recreational vehicle.

This term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

REQUIRED YARD [*Illustration Provided*]

The required yard shall be that set forth in the applicable Chapters of the Ensley Township Zoning Ordinance as the minimum yard requirement for each District.

SECTION 2.19 DEFINITIONS - S

SALVAGE YARD (See JUNK YARD)

SATELLITE DISH ANTENNA, OR DISH ANTENNA

An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

SETBACK [*Illustration Provided*]

The distance required to obtain minimum front, side or rear yard open space provisions of this Ordinance.

SIGN (See Section 14 - SIGNS) [*Illustration Provided*]

SIGNIFICANT NATURAL and CULTURAL FEATURES

Any natural area or cultural feature as designated by the Township Master Plan, Township Zoning Map, Michigan

Department of Natural Resources, Michigan Department of Environmental Quality, Michigan State Historic Preservation Officer, or the United States Fish and Wildlife Service which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features, and features considered to be of historic significance.

SINGLE OWNERSHIP

Ownership by one (1) person or by two (2) or more persons jointly, as tenants by the entirety, or as tenants in common.

SPECIAL LAND USE

A use which is permitted only after review and approval by the Planning Commission and Township Board as provided for under the provisions of the Township Rural Act, Michigan Public Act 184 of 1943, as amended.

SPECIFIED ANATOMICAL AREAS

- A. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STORY

That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.

STORY, HALF

An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches.

STREET

A public, dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property, or a private street or easement which affords principal access to a lot or abutting property.

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

SUBDIVISION

A development subject to the provisions of Michigan Public Act 288 of 1967, as amended.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

SWIMMING POOL

A constructed basin or structure for the holding of water for swimming and aquatic recreation. Refer to Section 3.13, SWIMMING POOLS.

SECTION 2.20 DEFINITIONS - T

TOWNSHIP

Ensley Township, Newaygo County, Michigan.

TOWNSHIP BOARD

The Township Board of Ensley Township.

TRUCK TERMINAL

A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks, are parked or stored.

TRUE CASH VALUE

The value placed on a property by the Township Assessor on the last tax day, being December 31st of each year, as kept in the records of the Township.

SECTION 2.21 DEFINITIONS - U (Reserved for future use)

SECTION 2.22 DEFINITIONS - V

VEHICLE SERVICE STATIONS

Buildings and premises where the principal uses include the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and other similar motor vehicle accessories, or the minor servicing of vehicles, including such activities as engine tune-ups, oil changes, muffler replacements, and other similar minor repairs, but not including body shops.

VIOLATION

Any action resulting in the violation of the requirements of this Ordinance, or the requirements or conditions attached to the use or development of a parcel, building, or facility resulting from the bonafide actions of the Zoning Administrator, Planning Commission, Township Board, or Zoning Board of Appeals.

SECTION 2.23 DEFINITIONS - W

WASTE DUMPSTER

A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having a capacity of at least one (1) cubic yard.

SECTION 2.24 DEFINITIONS - X (Reserved for future use)

SECTION 2.25 DEFINITIONS - Y

YARDS [*Illustration Provided*]

The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein.

A. FRONT YARD

An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building. In the case of a lot having frontage on a body of water, the front yard shall be considered that area between the shoreline and the building line of the main building. In the case of a corner lot, all lot lines abutting a street (public or private) shall be considered a front lot line with front yards provided for each.

B. REAR YARD

An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

C. SIDE YARD

An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the building line of the main building.

YARD, REQUIRED

The required yard shall be that set forth in the applicable Chapters of the Ensley Township Zoning Ordinance as the minimum yard requirement for each District.

SECTION 2.26 DEFINITIONS - Z

ZONING ACT

The Township Rural Zoning Act; Act 184 of 1943 of the Public Acts of Michigan, as amended.

ZONING ADMINISTRATOR

The person designated by the Township Board to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS (See BOARD)

SECTIONS 2.27 through 2.99 RESERVED FOR FUTURE USE

CHAPTER 3 GENERAL PROVISIONS

SECTION 3.00 AREA, HEIGHT AND USE CONDITIONS AND EXCEPTIONS

- A. **Required Area or Space** - A lot or lots in common ownership or a yard, court, parking area, frontage, dimension, or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.
- B. **Existing Lots of Record** - A lot which is platted, or otherwise lawfully of record as of the effective date of this Ordinance, may be used as specified in the District, provided the lot can meet the provisions of Section 3.20, Health Department Approval, and applicable building code requirements. The main building shall be located on the lot to assure maximum compliance with all yard and setback requirements for the District in which the lot is located. Accessory structures shall meet the setback requirements of Section 3.11.
- C. **Non-conforming, Adjacent, Lots of Record in Common Ownership** - If two or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, are in common ownership and adjacent each other or have continuous frontage and which individually do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.
- D. **Height Exceptions**
1. The following buildings and structures shall be exempt from height regulations in the A-R Districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, public monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed one hundred (100) feet in height. (Amended Nov. 2013)
 2. Additions to existing buildings and structures which now exceed the height limitations of their District up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building. Said radius to be measured from the structure or building which shall serve as the center of the circular area.

SECTION 3.01 REQUIRED YARDS OR LOTS

- A. **Minimum Requirements** - All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the District in which they are located.

- B. **Exclusion of Private Street Easements in Computing Lot Area and Width** - Computations for minimum lot area and width shall not include lands or areas used for private easements granted to other properties for purposes of establishing or maintaining a private street, land located under or comprising a public road right-of-way or land or bottomlands located under a lake, stream, or river.
- C. **Measuring Yard Setbacks** - Required yard setbacks shall be measured from the lot lines, except for lots which derive access from a private street, or have an easement for a private street on the property, in which case the setbacks shall be measured from the easement line.
- D. **Dwellings on More Than One (1) Lot** - If a structure is to be located on two (2) or more lots under single ownership, or if adjacent lots are required to maintain minimum lot area or yard requirements, the entire parcel shall be considered a lot for purposes of this Ordinance and the lots shall be legally and automatically combined into one (1) individual lot.

SECTION 3.02 PRINCIPAL USE OR MAIN BUILDING ON A LOT

- A. In all Districts, no more than one (1) principal use or main building shall be placed on a lot, except for groups of related industrial or commercial buildings, or multiple family dwellings, contained within a single, integrated complex, sharing parking, access, and other similar site features.
- B. If any part of any building is lawfully used for residential purposes and the remainder thereof is lawfully used for business, commercial, or other non-residential use, the part thereof used for residence purposes shall comply with the underlying residential district standards. If the underlying district does provide for residential standards, than the requirements of the R-S, Suburban Residential District, shall apply to that part of the building used for residential purposes.

SECTION 3.03 DOUBLE FRONTAGE LOTS

- A. Buildings on lots having frontage on two (2) intersecting or non-intersecting streets shall comply with front yard requirements on both such streets.
- B. Other than corner lots with frontage on two (2) intersecting streets, double frontage lots shall not be permitted.
- C. Lots fronting on a lake shall comply with front yard requirements on that part of the lot facing the shoreline. In such cases, the yard opposite the front yard shall be considered the rear yard.

SECTION 3.04 MINIMUM LOT WIDTH

The minimum lot width required in each zoning district shall be maintained across the entire length of the lot. All lots shall have frontage on a public or private street for a distance equal to or greater than the minimum lot width specified for the district in which the lot is located. For all lots abutting or having frontage on a lake, river or stream, each lot shall have frontage on the lake, river, or stream, as measured at the normal highwater mark, equal to or greater than the minimum lot width requirement of the zoning district within which the property is located. For purposes of this section, the measurement of lot width and frontage shall exclude all road or street right-of-way or easements. Notwithstanding the above, lots with frontage on a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than forty (40) feet of such frontage), provided, however, that a special use permit is obtained pursuant to Chapter 13 hereof and further provided that the lot width at the front setback line (or rear setback line in the case of waterfront lots) and beyond shall satisfy the minimum lot width requirement of the district in which the lot is located.

SECTION 3.05 USE OF BASEMENT FOR DWELLING PURPOSES

- A. The use of any unfinished basement or finished basement without a direct outside access shall be prohibited for use as a dwelling unit. Any dwelling without a full floor above grade shall be considered a basement

dwelling.

SECTION 3.06 PROJECTIONS INTO YARDS

- A. Certain architectural features such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters, roof overhangs, and similar features may project no further than four (4) feet into a required front or rear yard, and may not project into the required side yard.
- B. Porches, decks, balconies, or window awnings and similar structures.
 - 1. On non-waterfront lots, an open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning, which is constructed above the average grade level may project no further than ten (10) feet into a required front yard, no further than fifteen (15) feet into a required rear yard, and shall not project into a required side yard. In no case shall a porch, deck, balcony or awning be placed closer than ten (10) feet to any front or rear lot line.
 - 2. On waterfront lots, an open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning, which is constructed above the average grade level shall meet the front and rear yard setbacks established by existing porches, terraces, decks, balconies and awnings for buildings within one-hundred (100) feet of the lot line of the proposed structure. No such structure shall project into a required side yard. In no case shall a porch, deck, balcony or awning be placed closer than ten (10) feet to any front or rear lot line.

SECTION 3.07 CLEAR VISION CORNERS

On any street corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and eight (8) feet above the established abutting road grade within a triangle formed by the two street right-of-way lines and a line connecting them to points twenty-five (25) feet from the intersection of the right-of-way lines.

SECTION 3.08 CONTROL OF GLARE, FUMES, DUST, AND ODORS

- A. Every use shall be so conducted and operated such that it is not obnoxious or dangerous by reason of glare, fumes, dust, or odors beyond the lot on which the use is located, provided however, these provisions shall not prohibit the lawful use of land for farming operations.
- B. Obnoxious or dangerous fumes, dust, or odors are defined as:
 - 1. Fumes: any smoke-like, vaporous, or gaseous exhalation from matter or substances, especially of a harmful nature
 - 2. Dust: earth or other matter of fine, dry particles that can cause irritation, pollute the air, or inhibit sight/vision
 - 3. Odor: the property of a substance that activates the sense of smell, particularly a disagreeable scent or fragrance
 - 4. Glare: a harsh, bright, or dazzling light (or reflection of light) that causes annoyance or disruption
- C. Michigan Public Act 102 of 2012 prohibits open burning of waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials. Residents can still burn yard waste such as brush and leaves, and household waste such as untreated cardboard and paper products, in compliance with fire department regulations. Suspected violations of Public Act 102 can be reported to law enforcement and not to township officials. (Amended 8-3-2021)

SECTION 3.09 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION

A. Temporary Offices.

1. Upon application, the Zoning Administrator may issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and may be renewed by the Zoning Administrator for one (1) additional successive period of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located. (Amended Nov. 2013)
2. Upon application, the Zoning Administrator may issue a permit for a temporary sales office or model home which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and may be renewed by the Zoning Administrator for two (2) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project. (Amended Nov. 2013)

B. Mobile Homes and Campers as Temporary Residences. (Amended Nov. 2013)

1. The Zoning Administrator may issue a permit to an individual to park and occupy a temporary mobile home in any District provided that the Zoning Administrator makes the following determinations:
 - a. The mobile home will be used only as a temporary use on the same lot while the individual is constructing a permanent residence.
 - b. A building permit has been issued for the construction of a permanent residence to the individual applying for the temporary mobile home permit.
 - c. The mobile home dwelling meets the requirements of the Newaygo County Health Department and all applicable Township ordinances.
2. Upon applying for a temporary mobile home permit, the applicant shall pay a fee to the Township as determined by the Township Board. The permit fee shall be remitted to the Township Treasurer. The original temporary mobile home permit shall be limited to a period of twelve (12) months. If the permanent residence is not approximately fifty percent (50%) complete, as determined by the Zoning Administrator, within the six (6) month period, a six (6) month extension or less shall be permitted by the Zoning Administrator only for the purpose of completing the residence.
3. Upon the filing of an application for continuation of any mobile home permit, the applicant shall pay a fee, as determined by the Township Board; and such fee shall be remitted to the Township Treasurer. Such fee shall be for the consideration of such application, and no refund shall be made in the event of denial.
4. In addition to the original application fee, the applicant shall post a bond, cash deposit, or other security acceptable to the Township Board, in the amount of seven hundred dollars (\$700.00) to be placed in a non-interest bearing, escrow, account as a guarantee that a mobile home used as a temporary residence will be removed within thirty (30) days after expiration of the temporary mobile home permit. In the event the temporary mobile home is not removed as required, the Township may use any or all of the guarantee to have the mobile home removed and stored. Any portion of the guarantee not used by the Township for the above stated removal and storage shall be returned to the applicant.

C. Standards for Temporary Uses and Structures - In considering authorization for all temporary uses or

structures, the Zoning Administrator shall consider the following standards:

1. That the use or structure does not have an unreasonable detrimental effect upon adjacent properties;
 2. That the use or structure is reasonably necessary for the convenience and safety of the construction proposed;
 3. That the use or structure does not impact the nature of the surrounding neighborhood;
 4. That access to the use area or structure is located at the least offensive point.
- D. **Conditions** - The Zoning Administrator may attach reasonable conditions to temporary uses or structures to ensure that the standards of this Section are met.

SECTION 3.10 ACCESSORY USES

- A. In any District, accessory uses, incidental only to a permitted use, are permitted when located on the same property; provided that such accessory uses shall not involve the conduct of any business, trade or industry. This provision shall not mean the exclusion of home occupations as regulated by this Ordinance, nor shall it exclude the operation of a garage or yard sale, provided that such sale is not operated for more than a total of five (5) days within any thirty (30) day period.
- B. Gardening and the keeping of domestic or farm animals shall be considered customary to, and commonly associated with, the operation of the Permitted Uses or Special Land Uses; subject to the requirements of Sections 3.24.
- C. Except as provided otherwise by this Ordinance, no accessory use shall be established, commences or built on any lot or parcel unless a principle use or principal building has been lawfully established or located on the same lot or parcel.
Refer to Stand Alone Ord. 12-11.

SECTION 3.11 ACCESSORY BUILDINGS

A. General Requirements.

1. In any zoning district, except as expressly permitted elsewhere in this Ordinance, an accessory building shall not be erected or placed on a parcel without a main lawful building present on the parcel.
2. The drip edge of any detached accessory building shall not be located closer than ten (10) feet to any side lot line or rear lot line.
3. No accessory building shall be erected in any required front yard, except as expressly permitted elsewhere in this Ordinance.
4. The distance between buildings shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to the main building when the distance between structures is covered by a breezeway, portico, covered colonnade, or similar architectural device.

B. Residential Accessory Structures.

Accessory buildings shall be permitted on a lot in conjunction with any residential use on that lot provided that the following restrictions are met:

1. No more than two (2) detached residential use accessory buildings shall be permitted on any lot. An exception for one (1) additional structure will be allowed providing the following requirements are met (i.e. two detached accessory buildings plus the following structure):
 - (a) A structure for the covered/protected storage of wood (for heating fuel only, not for recreational use such as bonfires) in a neat and slightly manner and is conveniently located; only this use will be allowed for this structure. (Added July, 2019)
 - (b) All permits (zoning, building or other) are required, along with compliance requirements pertaining to these permits.
 - (c) The structure must be located so as to maintain required clearances from adjacent structures or a furnace/wood burner/boiler and it cannot be attached to any other structures except as provided in subsection (d) hereof.
 - (d) The structure size limits: A wood storage structure may be constructed either adjacent to or as an integral part of an outdoor heating unit. A wood storage structure shall be no larger than 200 square feet. The wood storage structure shall be no taller than 15' in height at the tallest point. Overhangs in excess of 30 inches shall be included in the maximum 200 square feet size calculation limit.
 - (e) Look/appearance of the structure: A wood storage structure shall have no more than three sides and be used solely for the storage of firewood to be used for heating and shall be constructed in compliance with section F, below.
 - (f) In the event that wood (for heating fuel) is no longer used for this purpose, then removal/modification of this structure is required. Written notification to the Township is required when the structure is no longer used for this purpose. Ninety (90) days will be allowed for removal of the structure and restoration of the site.
2. On lots with lake frontage, not more than one (1) accessory building of the two (2) permitted may be erected in the required front yard, provided it is located at least fifteen (15) feet from the shoreline and does not exceed 64 square feet in area.
3. An accessory building located in the rear yard shall not occupy more than twenty-five percent (25%) of the rear yard area.

C. Agricultural Accessory Structures.

1. Those structures used in bona-fide agricultural operations as defined and protected by the Michigan Right to Farm Act may be as tall as is reasonably necessary.
2. Accessory-type structures used for agricultural purposes are allowed in any agricultural zoning district, when the sole agricultural structure on a lot will be considered the main structure.
3. Accessory structures used in bona-fide agricultural operations are not subject to quantity limitations, but may not, when their area is added to that of other structures on the parcel, exceed the total maximum lot coverage limitation of the zoning district involved.

D. Commercial /Industrial Accessory Structures.

Accessory buildings are permitted within the commercial and industrial zoning districts provided that the following requirements are met:

1. No more than two (2) detached accessory buildings shall be permitted on any lot.
2. The total area of all accessory buildings shall not exceed twenty-five percent (25%) of the floor area of the main building(s).

E. Accessory Buildings on Vacant Lots or Parcels.

Notwithstanding the prohibition in this Ordinance against a residential accessory building being established, built or located on a lot or parcel without a lawful dwelling thereon, the Planning Commission may approve as a special land use the construction or installation and use of not more than one (1) accessory building on an otherwise vacant lot or parcel if all of the following requirements are met:

1. The vacant parcel or lot must be located within the L-R zoning district. The owner(s) of the vacant parcel or lot must also own a nearby parcel or lot with a dwelling thereon and the lot or parcel with the dwelling must also be located within the L-R zoning district.
2. No such accessory building shall be used as a dwelling, for human habitation or for sleeping or staying overnight.
3. The accessory building shall meet all applicable height, setback and size requirements of this Ordinance and the zoning district within which the accessory building will be located. The Planning Commission shall have the authority, pursuant to the approval of a special land use for an accessory building under this subsection, to attach reasonable conditions to the approval, including size, height or setback requirements that are more restrictive than would normally be required for the accessory building involved.
4. The parcel or lot upon which the accessory building will be built and used must be owned in conjunction with and have the same owner or owners as a lot or parcel with a dwelling or principal building located thereon across the street from the vacant lot or parcel upon which the accessory building will be built. In addition, the accessory building itself must also be located directly across the street from the dwelling. Furthermore, the owner or owners of the two lots or parcels involved (i.e., both the parcel or lot with the dwelling thereon and the lot or parcel upon which the accessory building will be built) shall execute and record with the Newaygo County Register of Deeds records a permanent deed restriction (in a form and with language approved by the Township beforehand) that provides that the two lots or parcels will never be sold, transferred or owned separately, but must always remain in common ownership. The deed restriction shall also provide that it may be enforced by the Township and shall not be altered without the prior written consent of the Township. Any and all costs incurred by the Township in reviewing and approving such deed restriction (including the Township's attorney fees and related costs) shall be reimbursed to the Township by the owner or owners of the parcels or lots involved.

F. Construction and Composition of Accessory Buildings.

Accessory buildings shall be stick-built or the equivalent new building construction. No mobile home, tank, junk object, or salvage materials, trailer, tractor trailer, vehicle or similar item shall be utilized as an accessory building or storage structure; provided, however, that such requirement shall not be applicable to bona fide agricultural storage or activities protected by the Michigan Right to Farm Act or to tool sheds or similar temporary storage structures utilized pursuant to the construction of a building, so long as the period of construction does not exceed one (1) year. (Amended 7-24-2019)

SECTION 3.12 FENCES

- A. Fences shall not exceed six (6) feet in height in Residential Districts or eight (8) feet in height in Non-Residential Districts, measured from the ground surface to the uppermost portion of the fence; provided however, fences in the A-R District may exceed the above limitations if necessary for the containment of animals.
- B. Fences erected within the required front yard in any District shall not exceed three (3) feet in height, except when used to enclose vacant land or land used for agricultural purposes, which may be up to six (6) feet in height. Fences within the required front yard shall be of a type which is not more than twenty-five percent (25%) solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.
- C. Fences in Non-Residential Districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed wire portion of the fence shall not be nearer than six (6) feet from the surface of the ground. Fencing in the A-R District for the containment of animals may include barbed wire and/or electrified fencing at heights necessary for said containment. The installation of electrified fencing shall comply with applicable Electrical Codes and such fencing shall not pose a threat to the public health, safety, or welfare.
- D. Fences shall not be erected within any public right-of-way in any District.
- E. Fences shall not be erected or maintained in any District in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection with the right-of-way lines.
- F. Fences erected for the containment of animals which are not native to the State of Michigan or which require a State or Federal permit for said containment shall require a Special Use Permit.
- G. All fences erected in all districts must have the finished side facing out. (Amended Nov. 2013)

SECTION 3.13 SWIMMING POOLS

- A. Pools used for swimming or bathing shall be in conformity with the requirements of this Section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.
- B. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a building permit has been obtained.

- C. The outside edge of the pool wall shall not be located closer than ten (10) feet from any rear or side property line. Swimming pools shall not be located in the front yard.
- D. Each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.
- E. All swimming pool installations shall comply with the building codes in force in Ensley Township and all standard codes referred to therein.

SECTION 3.14 HOME OCCUPATIONS

All home occupations shall be subject to the following restrictions and regulations:

- A. The home occupation shall be conducted by a person who's a resident of the premises, except that not more than two (2) persons may be employed who is not a resident of said premises.
- B. No motor other than electrically operated motors shall be used in conjunction with such home occupation, and the total horsepower of such permitted electrical motors shall not exceed ten (10) horsepower, or five (5) horsepower for any single motor. All motors and equipment used in the conduct of any home occupation shall be shielded so as not to cause radio or television interference.
- C. There shall be no exterior alteration in the residential character of the premises in connection with such home occupation and no more than twenty percent (20%) of the living area of the dwelling shall be devoted to such home occupation.
- D. No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the main building and no sign or device relative to the sale of such merchandise shall be displayed on the premises.
- E. All articles or materials used in connection with such home occupation shall be stored in the main and accessory buildings. No outside storage is permitted.
- F. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided off the street and not within the required front yard.
- G. There shall be no sale of products or services except as are produced on the premises by such home occupation, except that products not produced on the premises that are incidental to services being performed as a part of the home occupation may be sold in limited quantities.
- H. Instruction in craft or fine art, within a dwelling, by a resident member of the family residing in the dwelling, shall be considered a home occupation and shall be subject to the requirements for a home occupation.

SECTION 3.14A – HOME BASED BUSINESS (Amended 6/22/2016)

All home based businesses shall be subject to the following restrictions and regulations:

- A. The same person, persons, firm or firms must: (i) own both the property on which the home based business is located, (ii) reside in the dwelling on the property where the business is located and (iii) be the owner and operator of the home based business,

- B. No items, products, materials, equipment, vehicles, trucks or other items associated with the home based business shall be stored or kept outdoors, except no more than two (2) vehicles may be stored outdoors so long as they are not visible from a public road.
- C. The home based business may utilize not more than two accessory buildings on the property.
- D. The total number of employees for the home based business shall not exceed five employees beyond the residents of the dwelling on the property. The primary resident of the dwelling must also be an employee of the home based business.
- E. There must be designated adequate parking on the property for all employees of the home based business.
- F. The hours of operation for the home based business shall be between 8:00 a.m. and 5:00 p.m. unless the Planning Commission varies or waives those hours pursuant to the special land use process.
- G. The applicant shall submit a home based business exit plan to indicate what will occur upon the cessation of the operation of the home based business and to provide for its winding down. The exit plan shall include the removal of all signage, home based business supplies and materials, the removal and restoration of special driveways and parking areas and the removal of any other exterior items related to the home based business use.
- H. Lawful Nonconforming Home Based Businesses. Any home based business which has existed within the Township since 1997 (and has been operated continually for such consecutive 19 years or longer) and complies with all of the requirements of this Section 13.14(A) shall be deemed to be a lawful nonconforming use. No such lawful nonconforming use status shall be conferred on any such home based business, however, until the owner of the property submits proof to the Zoning Administrator that the home based business has been in existence for at least 19 consecutive years prior to the adoption of this Section and that the property owner and owner of the home based business will comply with all of the requirements of this Section 13.14A. No such lawful nonconforming home based business shall expand, increase in intensity or occupy a greater area unless a special land use approval is obtained from the Planning Commission.

SECTION 3.15 RESIDENTIAL STRUCTURES-USE FOR COMMERCIAL OR INDUSTRIAL

Residential structures, or buildings accessory thereto and additions to the same, may not be used for commercial or industrial purposes, except as may be permitted in Section 3.14 and Chapter 11A. (Amended 4/5/2011)

SECTION 3.16 MECHANICAL APPURTENANCES

Mechanical appurtenances shall not be closer than twenty (20) feet to adjoining properties.

SECTION 3.17 DISH ANTENNA

- A. Dish antennas are permitted in all Districts upon approval of the Zoning Administrator, provided the setback requirements of Section 3.11 for detached accessory buildings are maintained and the following conditions satisfied:
 - 1. The antenna shall be permanently anchored to a foundation.
 - 2. No portion of the antenna shall conduct or display any advertising, message, or other graphic representation intended for commercial purposes other than the manufacturer's name.
 - 3. No dish antenna shall exceed a height of fifteen (15) feet, including its mounting structure.
 - 4. No dish antenna shall be located in any front yard.

- B. A dish antenna may be mounted on the roof of a main or accessory building provided it shall not exceed a height of five (5) feet above the peak of the roof of the building, including the mounting structure.
- C. If the antenna is to be located in the side yard, or in the rear yard on the street side of a lot, the Zoning Administrator may require that a landscape screen be installed around the antenna to obstruct the view of the antenna from adjoining properties or from the street.
- D. Modification of the provisions of this Section may be approved by the Zoning Administrator provided the applicant demonstrates that reception comparable to other such installations in the Township may not be achieved as a result of complying with said provisions. In such instances, the Zoning Administrator shall modify only those requirements necessary to obtain proper reception.
- E. Dish Antennas one (1) meter (39.37 inches) or less in diameter are exempt from the above requirements.

SECTION 3.18 ESSENTIAL SERVICES

- A. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any District.
- B. Notwithstanding the provisions contained above:
 - 1. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
 - 2. Public utility buildings when located in any Residential District shall not include maintenance shops, repair garages, or storage yards as a principal or accessory use.
 - 3. Public utility facilities in any District are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

SECTION 3.19 ENSLEY TOWNSHIP AND OTHER GOVERNMENTAL BUILDINGS, STRUCTURES, AND USES

The regulations and requirements of this Ordinance shall apply to all federal, state, county, and other governmental units, agencies, and bodies. However, with regard to the Ensley Township government, the following shall be applicable:

- A. Any land or facilities owned by Ensley Township (or any agency, body, or commission of Ensley Township) that is used for recreation by the general public (which includes, but is not limited to, parks, nature preserves, playgrounds, community centers, boat launching sites, public docks, swim beaches, picnic areas and athletic grounds) shall be a permitted use where specified within the A-R Agricultural Residential zoning district and the R-L Lake Resort Residential zoning district. Such uses and facilities shall, however, be subject to an advisory review by the Planning Commission prior to the commencement or expansion of any such use or facility, except for minor improvements, upgrades or projects.
- B. Any building, use, or facility owned, conducted by, engaged in, or controlled by Ensley Township (or any of its agencies, bodies, or commissions) apart from those specified in subsection A hereof

(or where otherwise expressly allowed as a permitted use) shall be allowed in any zoning district with special land use approval.

Refer to Stand Alone 10-5.

SECTION 3.20 HEALTH DEPARTMENT APPROVAL

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities do not comply with the rules and regulations governing potable water supplies and waste and sewage disposal in Newaygo County.

SECTION 3.21 RAZING OF BUILDINGS

No building shall be razed until a building and/or zoning permit has been obtained for the required fee. The Building Inspector shall be authorized to require a performance guarantee in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. Said guarantee shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may, from time to time, prescribe, including filling of excavations, proper termination of utility connections, and other applicable building codes. (Amended Nov. 2013)

SECTION 3.22 MOVING OF BUILDING

- A. No existing building or structure of any type or kind shall be moved into the Township or moved from one lot in the Township to another lot in the Township unless a permit is issued by the Building Inspector. All such buildings shall meet the construction code as adopted by the Township. In considering such permit, the Building Inspector shall consider the following standards:
1. The type and kind of construction of the existing building in relation to its strength and whether or not the building may be a fire hazard.
 2. Whether or not the type and age of the building is in keeping with adjoining and neighboring buildings.
 3. The requirements of this Ordinance.

SECTION 3.23 NONCONFORMING USES, BUILDINGS OR STRUCTURES

- A. Continuance of Nonconforming Uses

Except where specifically provided to the contrary, and subject to the provisions of this Section, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued even though such use does not conform with the provisions of this Ordinance or any amendment thereto.

- B. Continuance of Buildings or Structures

Except where specifically provided to the contrary and subject to the provisions of this Section, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be maintained and continued even though such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

C. Expansion

Structures, buildings or uses nonconforming by reason of height, building area (size) and/or parking and loading space provisions only may be extended, enlarged, altered, remodeled or modernized when the following conditions are met:

1. The building or structure shall comply with all height, area, and/or parking and loading provisions of the underlying district with respect to such extension, enlargement, alteration, remodeling or modernization, except as noted in Section 3.00, D, 2.
2. The Zoning Administrator shall determine that such alteration, remodeling, or modernization will make the building or structure more conforming to underlying zone district standards.
3. Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.
4. No nonconforming use of any land or structure shall hereafter be enlarged or extended except after the approval of the Zoning Board of Appeals and which approval shall be granted only upon a finding of all of the following facts:
 - a. That the enlargement or extension will not substantially extend the probable duration of such nonconforming use.
 - b. That the enlargement or extension will not create requests for variances in the area.
 - c. That the enlargement or extension will not interfere with the use of other properties in the vicinity for the uses for which they have been zoned, nor with their use in compliance with all of the provisions of this Ordinance.

D. Restoration and Repair

1. Subject to the provisions of this Section, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.
2. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made but it shall not be structurally altered to permit the use of such building or structure beyond its natural life except for repairs necessary to maintain public safety.
3. In the event any non-residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, it may be rebuilt or restored if the cost thereof does not exceed fifty percent (50%) of the true cash value of the nonconforming building or structure prior to its damage or destruction.
4. In the event any non-residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy such that the cost of restoration or repair would exceed fifty percent (50%) of the true cash value of the nonconforming building or structure prior to its damage or destruction, a substantial improvement or rebuilding shall only be permitted if first authorized by the Zoning Board of Appeals. In considering such authorization, the Board of Appeals shall consider the following standards:

- a. Whether such substantial improvement will significantly extend the probable duration of the nonconforming use.
 - b. Whether or not the land previously occupied by the nonconforming use can be reasonably used for a use permitted in the applicable District.
5. In the event any residential nonconforming building or structure is in need of general repair or improvement or replaced due to physical deterioration or damaged by fire, wind, act of God, or public enemy, in part or in whole, said building may be repaired, improved, reconstructed or restored in accordance with the underlying zoning district standards. In the event the underlying zoning district standards cannot be met due to a pre-existing non-conformity such as an undersize lot area, insufficient lot width, and/or other factors of a similar nature, the building may be repaired, improved, reconstructed or replaced in compliance with the underlying zoning district standards to the maximum extent possible. In no case, however, shall the extent or degree of nonconformity which existed before the repair or improvement or damaging occurred be increased, unless a variance has been authorized by the zoning board of appeals pursuant to the provisions of this ordinance.

E. Change or Discontinuance

1. The nonconforming use of a building or structure or of any land or premises shall not be:
 - a. Changed to any other nonconforming use.
 - b. Reestablished after it has been changed to a conforming use.
 - c. Reestablished after abandoned or discontinued for a continuous period of twelve (12) months. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - (1) Utilities, such as water, gas and electricity to the property, have been disconnected;
 - (2) The property, buildings, and grounds have fallen into disrepair;
 - (3) Signs or other indications of the existence of the nonconforming use have been removed;
 - (4) Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
 - (5) Other actions, which in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.

F. Building or Structure Under Construction on Effective Date of Ordinance

Any building or structure shall be considered existing and lawful and for purposes of Section 3.23, A, to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained therefore, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

G. Nonconformance Under Previous Zoning Ordinances

Any structures or uses which fail to conform to the previous Ensley Township Zoning Ordinance, were not permissible, nonconforming uses or structures thereunder, and which violate the within Zoning Ordinance

shall not be considered permissible nonconforming uses under the within Ordinance but shall be considered impermissible nonconforming uses and subject to the penalties of this Ordinance.

SECTION 3.24 KEEPING OF ANIMALS AND PETS

- A. No more than four (4) adult [six (6) months of age or older] dogs shall be kept or housed for each dwelling unit in any district, with the exception of permitted kennel operations.
- B. Where animals other than house pets of the owner or occupant of the premises are kept or allowed outside, a fence of such construction as to keep said animals from leaving the premises at will shall be provided.
- C. All premises for the keeping of animals shall be regularly maintained in a safe and sanitary condition.
- D. The keeping, housing, raising, or medical care of fowl or animals other than house pets of an occupant of the premises, except where the activity takes place in an agriculturally-zoned district; and, is carried out by a commercial farm operating under the standards of the Right to Farm Act; and, the fowl or animals are maintained in accordance with the Michigan GAAMPS; is subject to the following provisions.
 - 1. On lots of one-half (½) acre, but less than one (1) acre: raising and keeping fowl and/or rabbits and/or other small animals for pets, not to exceed three (3) per family;
 - 2. On lots of greater than one (1) acre, but less than five (5) acres: raising and keeping fowl and/or rabbits and/or other small animals commonly raised for human consumption in numbers no greater than is required to satisfy the personal needs of the human residents of the premises;
 - 3. On lots of five (5) acres to ten (10) acres; the uses permitted by paragraph 2, above; and in agriculturally-zoned districts, one (1) large animal such as a horse, cow, or pig for each acre, or part thereof, provided that any fence, pen, building or other structure housing these animals shall be a minimum of fifty (50) feet from any property line.
 - 4. On lots of greater than ten (10) acres the restrictions of Section 3.24, D, 1-3 do not apply.
 - 5. Commercial kennels, riding stables, animal hospitals, and veterinary clinics shall be subject to the district requirements in which they are permitted.
- E. The keeping of animals, other than household pets, on lots of less than ten (10) acres shall be subject to review and approval by the Zoning Administrator. In granting approval, the Zoning Administrator shall determine:
 - 1. The premises to house the animals shall be of a safe and sanitary condition;
 - 2. Necessary fencing has been erected and in good repair.
- F. Approval by the Zoning Administrator for placement of animals on less than ten (10) acres shall be given to, and limited to, the resident of the property. Should said resident cease to reside on said property, all approvals shall become null and void. The new resident shall not house animals regulated by this Section until he/she receives authorization from the Zoning Administrator who shall determine approval based on application of the above, or amended, standards. (Amended 11/1/2016)

SECTION 3.25 MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE MANUFACTURED HOME PARKS

- A. All dwelling units located outside of manufactured home parks shall comply with the following requirements:
 - 1. All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half (7½) feet (seven feet and six inches).
 - 2. The minimum width of all elevations (sides of the home) shall be no less than twenty-four (24) feet. (Amended October 3, 2006)
 - 3. There shall be a foundation of concrete or block around the entire exterior perimeter of all

dwellings. The foundation shall have a minimum depth of forty-two (42) inches below grade. The foundation shall provide a maximum exposed foundation above grade of sixteen (16) inches and a minimum exposed foundation above grade of eight (8) inches. The Building Inspector may permit a lesser requirement, based on soil conditions, building type, topography, and any other relevant factor.

4. All dwellings without basements shall provide a crawl space below the entire floor of the dwelling two (2) feet in depth with a vapor barrier consisting of two (2) inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. The Building Inspector may allow an alternative building plan to be utilized if consistent with the approved construction code of the Township.
 5. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code currently adopted by the Township, or if a manufactured home shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards."
 6. The wheels, pulling mechanism and tongue of any manufactured home shall be removed prior to placement on a foundation.
 7. All dwellings shall be connected to a public sewer system and water supply system and/or a well or septic system approved by the Newaygo County Health Department.
 8. All dwellings shall provide steps or porch areas, permanently attached to a foundation, where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
 9. All additions to dwellings shall meet all of the requirements of this Ordinance.
 10. The pitch of the main roof of the dwelling unit shall not be less than three (3) feet of rise for each twelve (12) feet of horizontal run. (Amended October 3, 2006)
 11. All dwellings shall contain a minimum floor area as required by the underlying zone district.
 12. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity.
 - a. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling.
 - b. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of manufactured home parks within five hundred (500) feet of the subject dwelling.
- B. 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 designed home.
- C. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Building Inspector. If the dwelling unit is a manufactured home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to manufactured homes set forth in Section 3.28, A, of this Ordinance.
- D. All manufactured homes shall meet the standards for manufactured home construction contained in the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Township.

SECTION 3.26 RIPARIAN ACCESS

The following restrictions are intended to limit the number of users of lake or stream frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the Township.

- A. In all Districts there shall be at least fifty (50) feet of lake, river, or stream frontage, as measured along the ordinary high water mark of the lake, river, or stream, for each single family home, dwelling unit, cottage, condominium unit, site condominium unit or apartment utilizing or accessing the lake, river, or stream frontage; provided however, the above frontage requirement shall not supercede frontage requirements which may be greater as provided elsewhere within this Ordinance.
- B. The restrictions of this Section shall apply to all lots and parcels on or abutting any lake, river, or stream in all Districts, regardless of whether access to the lake, river, or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.
- C. In all zoning districts, no lake access, boat ramp, shore station, dock, boat launch or shoreline abutting a lake shall be utilized for commercial business, outdoor recreational (or entertainment) facilities, institutional, nonresidential or nonagricultural uses or purposes unless such use complies with the requirements of the district in which it is located and further such use is also approved as a special land use or planned unit development.
- D. The lake, stream and river access and use regulations contained in this section shall be fully applicable to all planned unit development and special land use projects or developments.
- E. In addition to the above limitations, no easement, private park, common area or lot or access property abutting or adjoining a lake shall be used to permit access to the lake, river, or stream for more than one (1) single-family home, dwelling unit, condominium unit, site condominium unit, apartment unit or any other use unless such additional access is permitted in the zoning district in which it is located and furthermore such use must also be approved as a special land use or planned unit development.

SECTION 3.27 PRIVATE ROADS (STREETS)

Ensley Township determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, maintenance, extension, relocation, and use of private roads to assure the following:

- A. That private roads are designed with sufficient width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
- B. That said roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
- C. That private roads will be constructed so as to protect against or to minimize soil erosion and to prevent damage to the lakes, streams, wetlands, and natural environment of the Township.
- D. That private roads are properly maintained.
- E. Permits Required; Special Land Use Approval:
 - 1. No private road shall be constructed, extended, used, utilized, upgraded to serve additional parcels, or relocated after the effective date of this Ordinance unless an application for a private road construction permit has been completed and filed with the Township Zoning Administrator, the permit fee established by the Township has been paid, the private road has been approved as a special land use, and a permit has been issued. (Amended Nov. 2013)
 - 2. The private road construction permit shall be issued only if the private road has been approved as a special land use after review and approval by the Township Planning Commission and the

Township Board, which shall consider the following review standards:

- a. Whether the private road meets the requirements of this section.
- b. Whether the private road is reasonably necessary to be private, or if it would be in the best interests of the Township for the road to be a public road.
- c. Whether the use of such private road has the potential to create conditions which may be detrimental to the health, safety, or welfare of persons or property through the creation of hazardous or potentially hazardous situations.
- d. Whether the standards of Chapter 13 of this Ordinance are met.

3. The application for such permit shall provide all of the following information:

- a. The name(s) of the owner(s) and any other parties having any legal interest in the private road and the property across which it is to be constructed.
- b. A site plan drawn to scale, prepared by a registered engineer, showing all proposed lots along the private road, and also showing the precise location, grade, route, elevation, dimensions, and design of the private road and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private road is to intersect. The plan may be prepared by registered surveyor, or other qualified person, rather than a registered engineer, if the proposed private road is to serve five (5) or fewer parcels, main buildings, etc., and the Township waives said requirement in writing.
- c. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private road.
- d. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private road right-of-way or within twenty (20) feet of either side thereof. Copies of the instrument describing and granting such easements shall be submitted with the application.
- e. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within one hundred (100) feet thereof.
 - f. The location of any other buildings and structures located, or to be located, within one hundred (100) feet of the private road right-of-way.
 - g. A proposed maintenance agreement, as defined in this section.
 - h. Any other requirements of this Ordinance.

F. The Zoning Administrator or his/her designee shall have the right to enter upon the property where the private road is (or will be) located to conduct such inspections as may be necessary to enforce this section. (Amended Nov. 2013)

G. Standards for Private Roads

1. No special land use approval for a private road shall be approved and no private road construction permit shall be issued until and unless the plans, maintenance agreement, and proposed construction comply with the following standards:
 - a) All private roads shall have a recorded permanent right-of-way and easement with a minimum width of at least sixty-six (66) feet. The right-of-way shall also expressly

permit public or private utilities to be installed within the right-of-way.

- b) The area in which the private road is to be located shall have a minimum cleared width of twenty-eight (28) feet, which clearing shall always be maintained. The private road shall meet the standards contained in the chart below:

**PRIVATE ROAD CONSTRUCTION STANDARDS
Ensley Township**

Private Road Standards	Serving 1 Parcel	Serving 2 to 5 Parcels	Serving 6 or More Parcels
Width of traveled road bed	13 feet	18 feet	22 feet
			26 feet if storm sewer is included, including valley gutters
Construction materials	Minimum subbase of 12 inches of sand and 6 inches of finished compacted gravel (No. 22A) on the top thereof	Minimum subbase of 12 inches of sand and 6 inches of finished compacted gravel (No. 22A) on the top thereof	Minimum of 1-3/4 inches of bituminous aggregate, meeting Michigan Department of Transportation specification 1100t, as amended

- c) Any private road which terminates at a dead-end shall have a means for vehicle turnaround either by use of a cul-de-sac, with a minimum radius of forty (40) feet, or by a continuous loop private road system, both of which must be constructed in accordance with the standards set forth in this section.
- d) No private road shall extend for a distance of more than three thousand (3,000) feet in length from the nearest public street right-of-way, as measured along the centerline of the private road, without a second direct access thereto being available from another public street.
- e) The road surface shall have a minimum crown of two-tenths (.2) of one (1) foot from the centerline of the private road to the outside edge thereof.
- f) A road shoulder, composed of six (6) inches of compacted gravel shall be provided on each side of the private road surface, with a minimum width of two (2) feet, containing a slope of twenty-two hundredths (.22) of a foot from the outside edge of the road surface to the toe of the slope.
- g) The maximum longitudinal road grade shall not exceed six percent (6%), provided that the Township may allow up to a ten percent (10%) grade provided that the applicant produces written justification satisfactory to the Township engineer, that an increase in the road grade with not adversely affect public safety and the design of the road system(s) and the Township Engineer approves thereof in writing.
- h) The layout of private road and the intersections of a private road with either public or private road shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township engineer. The minimum distance between intersections of public and/or private road rights-of-way shall not be less than three-hundred (300) feet, measured

along the right-of-way line thereof.

- i) The private road shall be constructed with such storm water runoff, culverts, and drainage contours as is required by the Township to ensure adequate drainage and runoff.
- j) The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township engineer and any other agency having jurisdiction thereof.
- k) The private road shall be given a name and street signs shall be installed in accordance with the standards and approval of the Newaygo County Road Commission. The private road addresses shall be posted in a conspicuous place at the entrance to the private road (at the intersection with the public road) in letters at least three (3) inches high. Private roads serving two (2) or more dwellings shall have a standard stop sign where the private road abuts the public road.

H. The applicant(s)/owner(s) of the private road agree that by applying for and securing a permit to construct the private road that they shall indemnify and will hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private road or of the failure to properly construct, maintain, repair, and replace the private road.

I. The applicant(s)/owner(s) of the proposed private road right-of-way or private road shall provide the Township with a recordable private road maintenance or restrictive covenant agreement between the owner(s) of the private road right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Township which shall provide for and assure that the private road shall be regularly maintained, repaired, and snow plowed so as to assure that the private road is safe for travel at all times and the cost thereof paid. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private road shall also be subject to the road maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the Township for approval prior to the issuance of the permit.

J. Upon completion of construction of the private road, the applicant(s) owner(s) shall remove and properly dispose of, any and all trees, shrubs, construction debris, and rubbish.

K. Certificate of Compliance

1. Upon completion of construction of the private road, the Zoning Administrator or his/her designee shall inspect the completed construction to determine whether it complies with (Amended Nov. 2013)
2. The approved plans, specifications, permit, and this Ordinance. If the private road serves six (6) or more parcels, the applicant(s) shall provide the Township with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private road has been completed in accordance with the requirements of the permit.
3. If the completed private road does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this Ordinance. No building permit shall be issued for a lot along a private road until and unless this private road fully complies with this Ordinance.

L. Fees.

1. Fees for the permits required hereunder shall be set by the Township Board from time to

time by resolution. Additionally, the Township may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, or other professional review the private road plans, specifications, and maintenance agreements, and to do the necessary inspections.

M. Maintenance and Repairs of Private Road

1. Upon completion of the construction, improvement, relocation, or extension of a private road, the applicant(s)/owner(s) shall maintain, repair, and snowplow the private road right-of-way to always comply with the requirements of this Ordinance and in such a manner as to assure that the private road is safe for travel at all times.
2. All driveways and private roads shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township. All driveways and private roads shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather.
3. All costs for maintenance and repair of the private road shall be the responsibility of the property owners or any property owners' association served by the private road.

N. Location and Use of Private Roads

1. Private roads may be located in all zoning districts except in the C-Commercial and I-Industrial Districts.
2. No commercial, business, or mercantile use shall utilize or be located on a private road. Notwithstanding this prohibition, agricultural uses may utilize private roads, and service drives for commercial, business or industrial uses may be used only as otherwise authorized by this or any other Township ordinance.

O. Permits for Buildings on Private Roads.

1. No building or other permit shall be issued for any building, dwelling, use, or structure the primary access to which is to be provided by a private road until a private road construction permit has been issued and the private road has been approved and constructed in accordance with the requirements of this section, or a performance guarantee for such private road has been provided.

P. Approval by the Road Commission.

1. No private road construction permit shall be issued until the applicant(s) has presented the Township with either an approved private road permit by the Newaygo Road Commission, or a letter from the Road Commission indicating that no private road permit from the county is required at that location.

Q. Frontage.

1. All parcels utilizing a private road shall have frontage on the approved private road right-of-way equal to the minimum lot width requirement of the zoning district where the property is located.

R. Disclosure.

1. The following statement shall be put in a deed restriction and recorded for any parcels serviced by a private road, before each parcel is sold: "**This property does not abut or front on a public**

road. If a public road or street does not abut or service the property, it is private and is not required to be maintained by any governmental unit."

S. Planned Unit Developments.

1. If the private road is proposed as part of a Planned Unit Development, the provisions of this section may be modified by the Township Board at its sole discretion for good cause shown.

T. Performance Guarantee.

1. The Township may, as a condition of the private road construction permit, require that the applicant provide a performance guarantee.

U. Effect.

1. New Private Roads. The provisions of this section shall apply to all private roads constructed from and after the effective date of this Ordinance.
2. Extended Private Roads. If, after the effective date of this Ordinance, an existing private road is extended by an increase in its length for the purpose of providing access to one or more additional main buildings, dwellings, or parcels, or structures, the provision of this section shall thereupon apply to the newly added length of such private road.
3. The segment of the private road in existence at the time of the adoption of this Ordinance shall comply with the following provisions of this section only if the number of additional main buildings, dwellings, or parcels served by the private road exceeds fifty percent (50%) of the number of main buildings, dwellings, or parcels serving the existing private road at the time of the adoption of this Ordinance:
 - a) 5., 2), Standards for Private Roads
 - b) 5.,1), 5), 6), 9), 10), 11), and 6, Standards for Private Roads
 - c) 9 - Certificate of Compliance, as applicable
 - d) 10 - Fees
 - e) 11 - Maintenance and Repairs
 - f) 18 - Performance Guarantee
 - g) If the number of additional main buildings, dwellings, or parcels served by the extension of the private road does not exceed fifty percent (50%) of the number of main buildings, dwellings, or parcels existing at the time of the adoption of this Ordinance, then the existing portion of such private road shall not be compelled to comply with the provisions of this section, but shall be maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township. All such private roads shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather.

4. Existing Private Roads

- a) If, after the effective date of this Ordinance, additional main buildings, dwellings, or parcels are created, built or erected along, or otherwise gain access from, an existing private road, and the number of additional main buildings, dwellings, or parcels served by the private road exceeds fifty percent (50%) of the number of main buildings,

dwellings, or parcels existing at the time of the adoption of this Ordinance, then the provisions of N,2,b of this Section shall thereupon apply to the entire length of such existing private road.

- b) If the number of additional main buildings, dwellings, or parcels served by the existing private road does not exceed fifty percent (50%) of the number of main buildings, dwellings, or parcels existing at the time of the adoption of this Ordinance, then such private road shall not be compelled to comply with the provisions of this section, but shall be maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township. All such private roads shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather."

SECTION 3.28 CONSTRUCTION SITE ACCESS

- A. A roadway and/or driveway shall be provided for emergency and fire department vehicles from the nearest available right-of-way to a construction site prior to any structural framing being done involving combustible materials.
- B. The roadway and/or driveway shall be reasonably level with a total cleared area of fourteen (14) feet in width and suitable for traverse by emergency and fire department equipment. Access of roadways and/or driveways must be maintained year-around to accommodate use of emergency and fire vehicles.

SECTION 3.29 STORAGE OF RECREATION EQUIPMENT

- A. Recreational equipment may be located outside of an enclosed building on any lot within a Residential District provided that the following requirements are met:
 - 1. If located on a corner or an interior lot recreational equipment shall not be located within a required front yard. If located on a through lot, recreational equipment shall not be located in the required front yard, or rear yard between a public street and rear yard setback.
 - 2. Notwithstanding the provisions of this Section, recreational equipment may be parked within any yard, but not within the required yard, for cleaning, loading, or unloading purposes for not more than 48 hours within any seven (7) day period.
 - 3. Recreational equipment may be used for living or housekeeping purposes for a period not exceeding fourteen (14) days in any calendar year.

SECTION 3.30 STORAGE AND REPAIR OF VEHICLES

- A. The repair, restoration and maintenance procedures or projects on vehicles in any Residential District, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations (bona fide farming operations are exempt from these provisions):
 - 1. Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within a garage. Only one such period shall be permitted within a single thirty (30) day period.
 - 2. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building, provided, however, in the A-R District two (2) vehicles may be stored in the rear yard

with no time limitation for said storage.

- B. It shall be unlawful for the owner, tenant or lessee of any lot in any Residential District to permit the open storage or parking outside of a building of semi-truck trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use in construction being conducted on such lot.

SECTION 3.31 BED AND BREAKFAST OPERATIONS

Bed and breakfast operations as defined in Section 2.02 may be permitted as a special land use in agricultural and residential districts if the Planning Commission finds that the following conditions are met:

- A. Not more than twenty five (25) percent of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms (based on a submitted floor plan of the proposed operation).
- B. The dwelling unit in which the operation takes place shall be the principal residence of the operator, and said operator shall live on the premises while the operation is active.
- C. There shall be no separate cooking facilities used for the bed and breakfast stay.
- D. Sufficient off-street parking shall provided in addition to that required for residential purposes at the rate of one (1) space per bed and breakfast sleeping room and shall be in accordance with Chapter 14.
- E. All bed and breakfast operations shall also meet the provisions for home occupations (Section 3.14).

SECTION 3.32 CATAGORIES OR BUSINESSES OR USES NOT EXPRESSLY DESIGNATED

Any use, use of land, activity, structure, or development activity not expressly allowed by this Ordinance is prohibited, unless the Zoning Administrator finds that the proposed use is substantially similar or identical in character to a use or item listed in this Ordinance. Uses, activities, enterprises, or purposes that are contrary to, or violate federal, state, or county laws or regulations, this Ordinance, or other Township ordinances are prohibited. An individual may apply to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include a proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Permitted Use or a Special Land Use. At their option and discretion, the Planning Commission and Township Board may consider an appropriate amendment to the Zoning Ordinance, but are not required to do so (Amended 11/9/2010)

SECTION 3.33 DRIVEWAYS

An approved driveway permit shall be obtained from the State Highway Department or Newaygo County Road Commission and submitted to the Building Inspector prior to issuance of a building permit.

SECTION 3.34 UNWHOLESOME SUBSTANCES

No unwholesome substance, as hereinafter defined, shall be deposited, buried, stored, dumped or accumulated by any person in any body of water or on or under any land, private or public, in the Township, unless such place has been designated as a public dumping ground by the Township, or unless such substance is housed in a completely enclosed building and in a safe and sanitary manner. For purposes of this Section only, the term "unwholesome" shall be defined to mean any trash, garbage, tin can, automobile body, junk vehicle, trailer body, junk, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, nite soil, oil, hazardous or harmful substances, industrial byproducts or waste, flammable matter or substances, debris, filth, or any other material which constitutes a threat or menace to the health, safety or general welfare of the public. For purposes of this Section only, the term "automobile body" shall be defined to mean any vehicle which (1) is unable to be driven upon a street under its own power and/or (2) which lacks all of the necessary component parts to make it operable and serviceable as a vehicle. For purposes of this Section only, the term "trailer body" shall be defined to

mean any boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer or any type of trailer or device used for hauling or moving things which lacks all of the necessary component parts to make it operative and serviceable as a trailer to be pulled as such on a street. The provisions of this Section shall not be deemed to prohibit the storing or spreading of manure, fertilizers or other soil conditioners as part of a farm operation.

No sewage, waster water or water containing foreign substances shall be deposited or drained onto any land or deposited or drained into any open ditch, creek, stream, lake, pond or other body of water unless the same has been first approved by the Michigan Department of Health and the Newaygo County Health Department.

No boxes, barrels, waste wood, lumber, scrap metal, automobile body, or other materials shall be accumulated by any person so as to provide insect, rat or rodent harborage.

SECTION 3.35 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 condominium subdivisions shall require site plan approval in accordance with Chapter 12, provided, however, site condominiums incorporating private roads shall be processed as a Special Use and shall also meet the standards of Chapter 13. In addition to the information required above, 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. All information required by the Ensley Township Subdivision Regulations, as amended.
3. Documented proof of review by the Newaygo County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation and Michigan Department of Natural Resources/Environmental Quality.

B. All site condominium subdivisions shall meet the requirements of the district in which it is located, including minimum lot size, minimum setbacks and minimum floor area.

C. All site condominium subdivisions shall meet the requirements of the Ensley Township Subdivision Control Regulations, Section 3.40B, as amended. Other requirements applicable to residential developments as found in the General Provisions Chapter, or elsewhere in the Zoning Ordinance, such as, but not limited to, those for private roads, internal access, underground utilities, Community Propane Tank and Distribution Systems, land clearing, large scale developments, and Open Space Developments, shall be met.

D. The Ensley 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 Ensley Township will not be responsible for maintenance or liability of the non-dedicated portions of the subdivision and that all private roads 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 storm water retention areas, drainage easements, drainage structures, lawn cutting and other general maintenance of common areas must be clearly stated.

E. The Ensley Township Clerk shall be furnished with two (2) copies of all "as-built" drawings for review by the Township Engineer for compliance with all Township ordinances prior to issuance of any building permits. Fees for this review shall be established by the Township Board.

SECTION 3.36 DIVISION OF PARCELS OR LOTS

No lot or parcel (platted or unplatted) shall be divided, split, or subdivided unless said action meets this Ordinance and all other applicable Township Ordinances.

SECTION 3.37 LOT WIDTH TO DEPTH RATIO

In all zoning districts, the depth of all lots created 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. For new lots larger than ten (ten) acres, the lot width to depth ratio shall not apply. (Amended June 2012) Refer to Stand Alone 12-1.

SECTION 3.38 RESIDENTIAL USES IN COMMERCIAL DISTRICTS

Residential uses shall not be permitted in the commercial districts; provided, however, that a residential use or a combined residential-commercial use may be permitted in a commercial district as a special land use if a special land use is obtained from the Planning Commission under the terms of Chapter 13. If such a special land use is granted, all use (other than the residential use prohibition), dimension, sign and other applicable requirements of the commercial district shall apply to the residential use or the combined residential-commercial use.

SECTION 3.39 ADDITIONAL REQUIREMENTS FOR COMMERCIAL ZONES

The following requirements shall apply to all uses, buildings, structures, and properties located within the C - Commercial District:

- A. No canopy, drive-through window or drive-through service shall be permitted or utilized unless approved by the Planning Commission as a special land use pursuant to Chapter 13.

SECTION 3.40 LAND DIVISIONS AND SUBDIVISIONS

- A. Land Divisions: No lot, parcel or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other requirements of the Ensley Township Zoning Ordinance, as amended. All land divisions, splits, or boundary reconfigurations of platted lots and unplatted parcels shall meet the requirements of the Ensley Township zoning Ordinance, as amended, and the requirements of the Michigan Subdivision Control Act (MCL 560.101 *et seq.* MSA 26.430(101) *et seq.*) No land division, lot split, creation of an access easement, or reconfiguration of boundary lines shall occur until and unless a land division permit has been obtained from the Ensley Township Zoning Administrator or such other person as may be designated from time to time by resolution of the Township Board. No permit for a land division shall be issued until and unless the Township determines that the land division, lot split, access easement, or boundary reconfiguration, as well as the resulting lots, access easements or parcels, fully complies with the requirements of the Ensley Township Zoning Ordinance, as amended, and all other applicable township ordinances. Fees for a land division permit shall be set as determined from time to time by resolution of the Township Board. No land division permit shall be approved or issued unless the application is accompanied by a survey done by a registered land surveyor or engineer showing all resulting lot or parcels, easements (if any), and full legal description. The township can waive the requirement of a survey in a given case for good cause shown by the applicant. No permit for a division of a platted lot or lots, or reconfiguration of boundary lines for a platted lot or lots, shall be issued until and unless such land division is also approved by the Township Board. No platted lot shall be partitioned or divided into more the four parts.

- B. Subdivision Control Regulations. The review and approval of subdivision involves a three (3) step process. The steps and local review parties include:
1. Pre-preliminary Review and Approval. Initial site plan review by the Planning Commission with a recommendation to the Township Board.
 2. Preliminary Review and Approval. Detailed site plan review by the Planning Commission with a recommendation to the Township Board.
 3. Final Plan Approval. Review and approval by the Township Board.

The above steps are described as follows:

1. Pre-preliminary Review and Approval:
 - a. The subdivision application shall be processed under the site plan requirements of Chapter 12, provided, however, detailed construction (engineering) plans shall not be required for this step.
 - b. Pre-preliminary review refers to the initial step of Township subdivision review and approval to determine the appropriateness of lot sizes, lot orientation, developmental density, ingress and egress, and neighborhood impact and consistency.
2. Preliminary Review and Approval:
 - a. Preliminary review and approval refers to the submission of a site plan meeting the requirements of Chapter 12 with full engineering design detail and suitable for construction purposes.
 - b. As a requirement of approval, the applicant shall provide evidence that other agency approvals have either been obtained or are not required. These agencies include:
 - i. Newaygo County Road Commission
 - ii. Newaygo County Health Department
 - iii. Newaygo County Drain Commission
 - iv. Newaygo County Soil Erosion and Sedimentation Control Office.
 - v. Michigan Department of Transportation (if project is located or accesses a state roadway).
 - vi. Michigan Departments of Natural Resources and Environmental Quality (if project, or any aspect thereof, falls under the jurisdiction of these agencies).
 - c. The applicant shall provide evidence that companies and/or agencies supplying energy, communication, and other such facilities and services have reviewed the proposed project plan and that the requirements of those companies and/or agencies have been incorporated as part of said plan.
3. Final Plan Approval: design plans, and receipt and acceptance of “as-built” engineered construction plans. This step shall be the responsibility of the Township Board and does not require action by the Planning Commission.
 - a. All subdivisions shall meet the requirement of the district in which it is located, including minimum lot size, minimum setbacks and minimum floor area.
 - b. Subdivision roads shall:
 - i. Be subject to site plan review and approval and processed as a component of the subdivision application.
 - ii. Be public and designed and constructed to the standards of the Newaygo County Road Commission.

- c. The Township Clerk shall be furnished with three (3) copies of all “as-built” drawings for review by the Township Engineer for compliance with all township ordinances prior to issuance of any building permits. Fees for this review shall be established by the Township Board.

SECTION 3.41 WORKING AND STORAGE SURFACE FOR CERTAIN OPERATIONS TO PREVENT ENVIRONMENTAL DAMAGE

For any junkyard, scrap yard, salvage operation, automobile or vehicle repair or overhaul operation or similar business which utilizes an area exceeding one-fourth (1/4) acres, all areas (indoors and outdoors) used for junk, scrap or materials storage and/or repair, salvage or overhauling operations shall be paved with a layer of concrete at least four (4) inches thick or asphalt at least one and one-half (1 1/2) inches thick. No chemicals or potentially hazardous substances from such operations shall be disposed of on-site or leaked or deposited onto or into the soil or ground. Such hard surface shall be repaired and maintained such that leakage into the soil shall not occur. The above requirements do not preclude compliance with applicable state and federal environmental regulations and other such regulations.

SECTION 3.42 INTERNAL ACCESS REQUIRED

All new residential developments of four (4) or more lots, parcels or site condominium units shall provide individual lot access from roads internal to the development and no lot shall have direct driveway access to the abutting public right-of-way. If private, the internal road shall be designed and constructed in accordance with Section 3.27. The regulating of such developments enables the township to control the number and impact of additional access points to public rights-of-way in order to preserve the capacity and ensure the safe movement of traffic on and along the right-of-way. The requirements of this section shall apply whether the development involves simple land divisions, platted subdivisions, site condominium units or any other type of land division, conveyance or development resulting in four (4) or more lots, parcels, site condominium units or other land divisions.

SECTION 3.43 UNDERGROUND UTILITIES

All new residential developments of four (4) or more lots, parcels or site condominium units shall place all utilities underground within dedicated right-of-way, whether public or private.

SECTION 3.44 COMMUNITY PROPANE TANK AND DISTRIBUTION SYSTEMS

All new residential developments of four (4) or more lots involving simple land division, platted subdivisions, site condominium units or any other type of land division, conveyance or development may be permitted to establish a Community Propane Tank and Distribution System (CPTDS). All CPTDSs shall be reviewed and considered as part of the development approval process, including OSDs, PUDs, site condominiums, land divisions, platted subdivisions or other similar procedure as may be utilized. A CPTDS shall be required to meet the following minimum requirements, notwithstanding any conditions as may be imposed by the Planning Commission or Township Board to protect the health, safety and welfare of the residents of the development, surrounding areas and the community as a whole.

- A. The CPTDS shall be screened from the view of the street and adjoining properties, whether internal or external of the development, with wood, vinyl, or similar high quality material, fence at least six (6) feet in height.
- B. The CPTDS shall be painted a neutral color.
- C. The CPTDS shall be set back a minimum of twenty (20) feet from adjoining properties.
- D. The CPTDS shall only serve homes within the development.
- E. Access to the CPTDS shall be gated, locked, serviced and maintained between the hours of 8:00 a.m. and 5 p.m., except in cases of emergency when service and/or maintenance may be provided as needed.

SECTION 3.45 CLEARING OF LAND

Unless associated with a bona fide public works project, such as the installation of utilities or other similar activities conducted by, or on behalf of the state, federal government, county, or the Township, it shall be unlawful for any person to engage in land clearing in excess of a total site area of one (1) acre, including the stripping and removal of topsoil or existing vegetation, from any site, parcel, or lot within the Township without first receiving appropriate development approval, such as, but not limited to Site Plan Review, Special Land Use, Planned Unit Development or Subdivision. In the case of a PUD or subdivision, the property shall not be cleared or deforested within thirty (30) feet of the road right-of-way. (Amended Nov. 2013)

SECTION 3.46 LARGE SCALE RESIDENTIAL DEVELOPMENTS

Large scale residential developments with ten (10) or more lots, parcels or site condominium units, in the A-R, R-L and R-S Districts shall be developed only as a planned unit development (“PUD”). The regulating of such development of a PUD basis will enable the Township to control and moderate the size, scope and impact of such development, in accordance with the Township Master Plan and the purposes of the Ordinance. The requirements of this section shall apply whether such development involves simple land divisions, platted subdivisions, site condominium units or any other type of land division, conveyance or development resulting in ten (10) or more lots, parcels, site condominium units or other land divisions.

Section 3.47 – CERTAIN PROHIBITED LAND USES

- A. Land uses, activities, structures, enterprises or purposes that are contrary to or which violate federal or state laws, county ordinances, this Ordinance or other Township ordinances are prohibited.
- B. No zoning approval, permit, variance, rezoning, site plan approval or zoning compliance permit shall be issued or granted by the Township for any use, activity, structure or building that is illegal under Michigan law or federal law.
- C. No medical marijuana dispensary, grower operation (as defined by Michigan law), provisioning center (as defined by Michigan law), secure transporter (as defined by Michigan law), safety compliance center (as defined by Michigan law), processing facility or similar facility, use or business shall occur, be established, be conducted or be present within Ensley Township. (Amended 02/06/2018)

SECTION 3.48 WIND ENERGY SYSTEMS (Amended July 7, 2020)

(a) Purpose:

(1) The purpose of this Section is to establish standards and procedures by which the installation, use and operation of Wind Energy Systems (WES) are to be regulated within Ensley Township, as well as to promote the effective use of wind energy and to preserve and protect public health, safety, welfare and quality of life.

(2) With advances in technology of “wind energy development” in general, specific locations within the Township may support the implementation of Utility Grid Wind Energy Systems. To prepare for potential “wind development projects” within the Township, this Ordinance will require such developments to obtain a Special Land Use Permit to ensure wind development sites are appropriately located so as to protect the character and stability of the Township’s residential, agricultural, recreational, commercial and/or industrial areas and character while simultaneously preserving and protecting the Township’s important and sensitive environmental and ecological assets and areas, open space, viewscales and aesthetics, wetlands, and other ecological and

environmentally sensitive areas. Accordingly, regulations are necessary to further the above goals and, equally important, to minimize the potential adverse effects of this emerging land use on adjacent properties.

(b) Findings

- (1) This Ordinance has been developed with the intention of obtaining an appropriate balance between the desire for renewable energy resources and the need to protect the public health, safety, and welfare of the community and the character and stability of the Township's residential, agricultural, recreational, commercial and/or industrial areas and preserving and protecting the Township's important and sensitive environmental and ecological assets and areas, open space, viewscapes and aesthetics, wetlands, and other ecological and environmentally sensitive areas.

- (2) Based on evidence presented in this State and others concerning the adverse secondary effects of wind energy systems on communities, including, but not limited to, findings from the Wind Turbine Health Impact Study: Report of Independent Expert Panel, prepared for the Massachusetts Department of Environmental Protection (2012); Strategic Health Impact Assessment on Wind Energy Development in Oregon, prepared for the State of Oregon (2012); Potential impact on the Public's Health from Sound Associated with Wind Turbine Facilities, prepared for the State of Vermont's Department of Health (2010); Analysis of the Research on the Health Effects from Wind Turbines, Including Effects From Noise, prepared for the Maine Department of Health and Human Services (2012); Jeffrey et al, "Adverse Health Effects of Industrial Wind Turbines," 59 Can Fam Physician 473-475 (2013); Salt, A., and Kaltenbach, J, Infrasound From Wind Turbines Could Affect Humans, 31(4) Bulletin Science, Technology and Society, 296-302 (2011), the following are among the potential harmful secondary effects of wind energy systems:
 - (i) Falling ice or "ice throws" is physically harmful and measures should be taken to protect the public from the risk of "ice throws."
 - (ii) Nighttime wind turbine noise can cause sleep disturbance. Generally, sleep disturbance can adversely affect mood, cognitive functioning and one's overall sense of health and well-being. Chronic stress and sleep disturbance could increase the risk for cardiovascular disease, decreased immune function, endocrine disorders, and mental illness. In addition, possible health effects include increased heart rate, insomnia, fatigue, accidents, reduction in performance and depression.
 - (iii) Sound from wind energy facilities could potentially impact people's health and well-being if it increases background sound levels by more than 10 dB(A) or results in long term outdoor community sound levels above 35-40 dB(A).
 - (iv) There is evidence that wind turbine sound is more noticeable, annoying and disturbing than other community industrial sounds at the same level of loudness.
 - (v) People who live near wind turbines are more likely to be impacted by wind turbines than would those far away.

- (vi) Alternating changes in light intensity caused by the moving blades of wind turbines on the ground and stationary objects, also known as shadow flicker, can cause health issues.
- (vii) The Township desires to protect ecological and environmentally sensitive areas in the Township, including, but not limited to, habitats for endangered species or heavily used migration routes for species of waterfowl and other migratory birds (some of which are protected species). Thus, the Township has determined that wind development sites can adversely impact wildlife and their habitats and makes evaluation of proposed wind development sites essential. The Township finds that any wind development sites should have the lowest potential for negative impacts on wildlife resources and avoid locations with higher concentrations of migratory birds. Further, any wind development sites that would fragment sensitive habitat areas, like rivers, streams, and wetlands, should be avoided.
- (viii) The general welfare, health, and safety of the citizens of the Township will be promoted by the enactment of this ordinance.

(c) Definitions

- (1) Participating Landowner: A landowner who has leased land to the WECS Applicant, received financial remuneration from the WECS Applicant, recorded with the Newaygo County Register of Deeds said agreement, and has a contract with the WECS Applicant. A Participating Landowner may also be called a WECS contract leaseholder. A Participating Landowner may or may not have turbines or infrastructure located on their property.
- (2) Non-Participating Landowner: A landowner who has not signed a contract or any legal document with the WECS Applicant and has not given up rights to their owned land to the WECS Applicant.
- (3) SCADA (supervisory control and data acquisition): A computer system that monitors and controls WECS units.
- (4) dBA: The A-weighted sound level.
- (5) dBC: The C-weighted sound level.
- (6) Pasquill Stability Class: Reference, wikipedia.org “Outline of air pollution dispersion”.
- (7) Adverse Sound Character: Sound that causes building rattle, is impulsive, tonal, or has low-frequency bass rumble.
- (8) ANSI: the American National Standards Institute.
- (9) Audible: The varying degrees of sound perception as reported by affidavit, including, but not limited to, just perceptible, audible, clearly audible, and objectionable.
- (10) Decibel (dB): The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound

pressure of the measured sound to the sound pressure of a standard sound (20 microPascals); abbreviated "dB."

- (11) Emergency work: Any work or action necessary to deliver essential services in an emergency situation, including, but not limited to, repairing water, gas, electricity, telephone and sewer facilities and public transportation, removing fallen trees on public rights-of-way, and abating life-threatening conditions.
- (12) Equivalent Sound Level (or Leq): The sound level measured in decibels with an integrating sound level meter and averaged on an energy basis over a specific duration.
- (13) Excessive noise: Sound that is determined by ordinance to be too loud or unnecessary or creates a noise disturbance.
- (14) Ambient: Ambient is defined as the sound pressure level exceeded 90% of the time over a 96-hour measurement period with daytime/nighttime division.
- (15) Noise: A sound, especially one that is loud or unpleasant or that causes disturbance. Any airborne sounds of such level and duration as to be or tend to be injurious to human health or welfare (well-being) or that would unreasonably interfere with activities or the enjoyment of life or property.
- (16) Quiet Rural or Residential property: Any property where there is an inherent expectation of quiet, including, but not limited to, all residential, business, or agricultural zoned properties, single family homes, and retirement homes.
- (17) Sound level meter: An instrument for the measurement of sound levels that meets the ANSI requirements of S1.4-1983 (or later revision) for Type 1 or 2 instruments. For frequency analysis, octave and 1/3 octave filters shall conform to ANSI S1.11-1986 (or later revision).
- (18) GIS: Geographic Information System and is comparable to GPS (global positioning system) coordinates.
- (19) Survival Wind Speed: The maximum wind speed, as designated by the WECS manufacturer, at which a WECS in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- (20) Tip Height: The height of the turbine with a blade at the highest vertical point.
- (21) Wind Energy Conversion System (WECS): Any combination of the following:
 - (i) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
 - (ii) A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
 - (iii) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;

- (iv) The generator, alternator, or another device to convert the mechanical energy of the surface area into electrical energy;
 - (v) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
 - (vi) Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.
- (22) WECS Applicant: The person, firm, corporation, company, limited liability corporation or other entity, as well as the Applicant's successors, assigns and/or transferees, which applies for Township approval (permit) to construct a WECS and WECS Testing Facility. An Applicant must have the legal authority to represent and bind the Participating Landowner, or lessee, who will construct, own, and operate the WECS or Testing Facility. The duties and obligations regarding a zoning approval for any approved WECS or Testing Facility shall be with the WECS or Testing Facility owner, and jointly and severally with the owner, operator, and lessee of the WECS or Testing Facility if different than the WECS owner.
- (23) Wind Energy Conversion System (WECS) Testing Facility: A structure and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source, shall not be deemed to be a communication tower.
- (24) L10: Is the noise level exceeded for 10% of the time of the measurement duration. This is often used to give an indication of the upper limit of fluctuating noise, such as that from road traffic.
- (25) L90: Is the noise level exceeded for 90% of the time of the measurement duration and is commonly used to determine ambient or background noise level.
- (d) *Public Utilities.* Transmission lines, sewer lines, water mains, pumping stations, substations, poles, and related equipment owned or provided by public utility companies or by the Township shall be permitted in all zoning districts. Any equipment enclosures, substations, equipment storage buildings or similar structures shall be subject to the site plan review requirements of Article 19. Any office, manufacturing, or sales buildings must be located in the Commercial or Industrial zoning district. All communication towers or commercial wind energy conversion systems operated by public utility companies shall be subject to the requirements of section "Commercial Wind Energy Conversion Systems (WECS)". Unless specifically noted, all WECS permit information and supporting documentation shall be allocated reasonable Township review time based on complexity and outside expertise review. Requirements shall be presented in written form and allow minimum thirty (30) days before Township discussion. Township may at its discretion review provided documents sooner than thirty (30) days. Providing documents without time for Planning Commission to review shall result in permit denial and require WECS applicant to reapply. Each ordinance section requires approval by the Planning Commission unless otherwise noted. Township shall review all documentation to assure that residents' health, welfare, and safety are not negatively impinged.
- (e) *Exempt Towers and Wind Energy Conversion Systems (WECS).* Communication towers, antennas, wind energy conversion systems (windmills, turbines) and related facilities located on the premises of a farm, home, or business and which do not primarily involve the sale of electricity or communication services off the premises shall be exempt from the requirements of section "Commercial Wind Energy Conversion

Systems (WECS)”. However, exempt towers and WECS are subject to the following noise regulations of the Ensley Township Zoning Ordinance: Chapter 3, Section 3.08. Such units shall be allowed as a permitted accessory use in all zoning districts, providing the electricity or communication services are primarily used on site for a farm, home or business. In the case of a WECS, the total height with the blade fully extended (Tip Height) shall not exceed one hundred thirty (130) feet, and the minimum clearance from ground level to the blade at its lowest point shall be twenty (20) feet. The minimum set-back from property lines and road right of way lines shall be equal to 3 times the Tip Height of the unit (WECS blade at its highest point).

- (f) Commercial Wind Energy Conversion Systems (WECS). Wind energy conversion systems and WECS testing facilities, other than those exempted under section (e) “Exempt Towers and Wind Energy Conversion Systems (WECS)”, shall only be allowed as special land uses in the AR Zoning District. An application for a special land use permit shall be filed with the Township pursuant to Chapter 13 as to Special Land Use approvals. Supporting data and documentation must be submitted in their entirety at time of application. Applicant shall provide to the Township updated documents throughout the lifespan of the WECS upon request by the Township Board or Planning Commission. Applicant shall also include the following:
- (1) **Permitting Costs:** An escrow account shall be set up when the Applicant applies for a Special Use Permit for a WECS and WECS Testing Facilities. The monetary amount filed by the Applicant with the Township shall be in an amount in accordance with the Township Escrow Policy to cover all reasonable costs and expenses associated with the special use zoning review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the Township may require that the Applicant place additional monies into the Township escrow should the existing escrow amount filed by the Applicant prove insufficient. If the escrow account needs replenishing and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the Applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the Applicant within ninety (90) days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The Township shall hire qualified professionals for each and any of the technical fields associated with the Special Use Permit, such as, but not limited to, electrical, acoustics, environment, economics, wildlife, health, and land-use.
 - (2) **Environmental Assessment:** The Applicant shall fund an environmental assessment or impact study and other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review. Studies shall be limited to the area within three (3) miles outside of the Township boundaries.
 - (i) The Applicant shall perform pre-construction ground water testing on all wells located within the required setback distance of a proposed turbine location. The operation of the WECS shall not negatively impact any groundwater well or groundwater source in the vicinity of the WECS. Complaints regarding impact of the WESC on groundwater sources shall be promptly forwarded to the Township Board as part of the complaint resolution process. The Township Board will consider proof of a negative impact arising from the installation and/or operation of the WECS on a groundwater well or source in the vicinity of the WECS as a violation of the conditions of the special use approval.

(ii) A background (ambient) sound study shall be performed and a report provided which indicates Leq 1 second, L10, and L90 sound levels using A-weighting and C-weighting. Data shall be collected at midpoints along property lines of adjoining Non-Participating and Landowners Participating. Measurement procedures are to follow the most recent versions of ANSI S12.18 and ANSI S12.9, Part 3 guideline (with an observer present). Measurements shall be taken using an ANSI or IEC Type 1 Precision Integrating Sound Level Meter. The study must include a minimum of a four-day (96 hour) testing period, include one Sunday, and divide data by daytime and nighttime. The sound background study shall report for the period of the monitoring topography, temperature, weather patterns, sources of ambient sound, and prevailing wind direction.

(3) Economic Impact: The Applicant shall fund and provide an economic impact study for the area affected by the WECS project. Such a study shall include probable financial impact regarding jobs, tax revenue, lease payments and property values at a minimum and average set-backs distances. Business and residential growth potential shall be considered.

(4) Site Plan: The Applicant shall submit a site plan in full compliance with Chapter 12 of this Ordinance. The Applicant shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards, as well as information regarding health, welfare and safety in areas including, but not limited to, noise, vibration, shadow flicker, and blade ice deposits. This information shall also address the potential for the WECS to structurally fail or collapse, and what results should be expected in such an event. Additional requirements for a WECS site plan are as follows:

(i) Building Siting: GIS locations and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above-ground structures associated with the WECS.

(ii) Nearby Building Siting: GIS locations and height of all adjacent buildings, structures, and above ground utilities located within three (3) times minimum setback distance for Non-Participating Landowners where the proposed WECS and
WECS Testing Facility will be located. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the WECS or Testing Facility, located on the lot or parcel involved.

(iii) Access Driveways: GIS location of WECS and Testing Facility access driveways together with details regarding dimensions, composition, and maintenance of the proposed driveways. The site plan shall include traffic routes, time of the year use, staging areas, and any other physical sites related to WECS. Construction of the Access Driveway that serves a WECS or Testing Facility is required to protect the public health, safety, and welfare by offering an adequate means by which governmental agencies may readily access the site in the event of an emergency. All such roads shall be constructed to allow access at all times by any emergency service vehicles, such as fire, police, and repair. Access driveways shall be no closer than 300' to adjacent property unless Applicant provides documentation in the form of a signed approval by affected Participating and Non-Participating Landowners. Such approval shall be recorded with Newaygo County Register of Deeds using only the WECS Waiver Form Revision 1 or later.

(iv) Facility Security: Security measures shall be sufficient to prevent unauthorized trespass and to protect health, welfare, and safety.

- (v) Maintenance Program and Resolution Program: The Applicant shall provide to the Township a written description of the problem and failure program to be used to resolve the any WECS and WECS Testing Facility issues, including procedures and schedules for removal when determined to be obsolete or abandoned.
 - (vi) Site Lighting: A lighting plan for each WECS and Testing Facility. Such plan must describe all lighting that will be utilized and documentation that FAA requirements are met. RADAR activated lighting shall be utilized if allowed by FAA. Such a plan shall include but is not limited to, the planned number and location of lights, light color, activation methods, effect on Township residents and whether any lights blink. Due to complexity in describing lighting effects for health, welfare, and safety, Applicant shall, if available, provide example locations with product descriptions, where similar, or proposed, lighting solutions are currently deployed. Lighting shall be fully shielded from ground, be FAA compliant, and be of most current design, to minimize lighting blinking and brightness nuisance.
 - (vii) Proof of any applicable documents recorded at the Newaygo Country Register of Deeds utilizing Article 1522 WECS Waiver Form Revision 1 (or later).
 - (viii) If there are any changes to any site plan for a WECS or Testing Facility, including any changes in road locations, road access, the location of accessory structure, and/or the location of any turbine, a revised site plan shall be submitted and approved prior to construction. Any revised site plan must provide revised calculations to address all of the items required under the original plan submission (i.e. setbacks, shadow flicker, noise, etc.).
 - (ix) Supplemental: Additional detail(s) and information as requested by the Planning Commission.
- (5) Site Insurance: The Applicant shall provide proof of insurance for each WECS at all times for at least \$10,000,000 for liability, property damage, livestock damage, and future earnings loss. Applicant shall provide yearly proof of insurance to Township that confirms active coverage for the Applicant, Township, Participating Landowners, and Non-Participating Landowners. Aggregate policies are allowed if minimum coverage per WECS is satisfied and coverage is provided for every site where Applicant's equipment is located.
- (6) Removal Insurance (decommissioning): To ensure proper removal of each WECS structure when it is abandoned or non-operational, application shall include a proof of the financial security in effect before permit is approved. The security shall be licensed in the State of Michigan and be in the form of 1) cash deposit or 2) performance (surety) bond selected by the Planning Commission and bonded by a top institution from the Department of the Treasury's Listing of Approved Sureties Department Circular 570, T-list. The duration of the security shall be termed to the removal of each WECS as stated in this Ordinance. Additionally, security is based on each WECS and is to be backed by owner assets, operator assets, parent company assets, and leaseholder assets approved by the Planning Commission.
- (i) The amount of each WECS security guarantee (surety) shall be the average of at least two independent (of Applicant) demolition (removal) quotes, obtained by the Planning Commission and approved by the Board, plus 10%. If the quantity of quotes obtained is two, the formula shall be $(\text{quote1} + \text{quote2})/2 * 1.10$. The security guarantee shall be no less than \$800,000 per WECS.

Quotes shall be based on individual WECS removal and shall not group multiple WECS simultaneous removals together. Quotes shall be ordered and obtained by the Township from established demolition companies. The demolition method shall be approved by the Township Board. Quotes shall not include salvage values. Security guarantee shall be updated every five (5) years at the rate of 1.5 times CPI (consumer price index) for each year.

- (ii) Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction operations begin on the WECS project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this ordinance, and shall subject the Applicant to all available remedies to the Township, including enforcement action, fines, revocation of the special use approval and WECS removal.
 - (iii) The Applicant shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the structure is not voluntarily removed and the Township has to enforce removal.
 - (iv) In the event the WECS owner, operator, parent company, performance bond defaults on any or all of the previously outlined decommissioning requirements, the Participating Landowner upon which each WECS is located shall be responsible and liable for the removal of each WECS. Failure of the Participating Landowner to comply with the removal and decommissioning guidelines shall result in the Township having the WECS removed at the expense of the Participating Landowner. If funding is not available to cover the costs of removal by the Participating Landowner, legal action to pursue the seizure of Participating Landowner property(ies) will take place to cover such costs.
- (7) Safety Manual: The Applicant shall provide an unredacted copy of the manufacturer's safety manual for each model of turbine without distribution restraints to be kept at the Township Hall and other locations deemed necessary by Planning Commission or local first responders. The Manual should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during WECS failure, processes in emergencies, etc.
- (8) Repair Policy Documentation: Applicant shall provide a detailed policy and process book for the repair, replacement, and removal of malfunctioning, defective, worn, or non-compliant WECS. Sections of the process book should consider any ordinance requirement or WECS performance deficiency.
- (9) Noise: Applicant shall provide an initial sound modeling report and a 6-month postconstruction report for the project with a schedule and documentation which adhere to the following:
- (i) Chart outlining ordinance requirements and a description of compliance or non-compliance.
 - (ii) Declaration whether submitted data is modeled or measured.
 - (iii) Declaration of values, test methods, data sources, and similar for all modeled or measured data.
 - (iv) Estimated timeline for project including ordinance requirements completed, construction, post construction, and validation testing.

- (v) Applicant measured data shall be accompanied by SCADA data confirming full power during testing. Unless otherwise requested, minimum SCADA data format shall be grouped in 24hr periods and 1 second intervals including wind vector, wind speed, temperature, humidity, time-of-day, WECS power output, WECS amps, WECS volts, WECS nacelle vector, WECS blade RPM, WECS blade pitch.
 - (vi) Permitting data may be submitted based on WECS manufacturer data. However, measured data from active and similar WECS facilities shall be simultaneously submitted.
 - (vii) It is acknowledged that WECS units sustain wear over time. Applicant is to submit data from existing and similar WECS installations showing aged sound measurements (to demonstrate compliance potential over the life of WECS) in accordance with this ordinance for 5, 10, and 15-year-old units.
 - (viii) Modeling factors shall be set for the worst-case environment, such as high humidity, frozen ground (non-porous), atmospheric variances (atmospheric profile Pasquill Stability Class E or F preferred), elevated noise source and no ground cover. Use of modeling methods (standards) shall have deficiencies (limitations) fully disclosed and shall include known error margins. Nondisclosure of modeling method deficiencies shall require resubmission of SLUP in its entirety with complete modeling deficiencies disclosed.
- (g) *Commercial Wind Energy Conversion Systems (WECS) – Standards and Requirements.* The WECS project shall meet the following standards and requirements:
- (1) Set-Back: The minimum set-back from any property line of a Non-Participating Landowner or any road right-of-way shall be no less than four (4) times Tip Height of WECS or WECS Testing Facility unless Applicant provides documentation in the form of a signed approval by affected Participating and Non-Participating Landowners waiving these requirements. Documents in full shall be recorded using only the WECS Waiver Form Revision 1 or later, with the Newaygo County Register of Deeds. For WECS, use turbine pole centerline as WECS measuring point.
 - (2) Ground Clearance: The minimum clearance from ground level to the blade at its lowest point shall be one hundred (100) feet.
 - (3) Applicant Compliance: The WECS and related equipment shall comply with any and all State, Federal, County and Township requirements.
 - (4) Blade Clearance: Blade arcs created by a WECS shall have a minimum of one hundred (100') feet of clearance over and from any structure.
 - (5) Braking: Each WECS shall be equipped with a braking, or equivalent device, capable of stopping the WECS operation in high winds with or without SCADA control. Braking system shall be effective during complete GRID power failure where WECS are unable to communicate with SCADA control or receive power.
 - (6) Signage: Each WECS and Testing Facility shall have one sign per turbine, or tower, located at the roadside and one sign attached to base of each WECS, easily visible throughout four seasons. Signs

shall be at least two square feet in area. Signs shall be the same and shall uniquely identify each WECS. Signage shall comply with Chapter 14 Signs and Billboards. Additional signage on and around the tower is recommended. The sign shall contain at least the following:

- (i) Warning high voltage.
 - (ii) Participating land owner's name, WECS owner's name, and operator's name.
 - (iii) Emergency telephone numbers and web address. (list more than one number).
 - (iv) If WECS uses fencing, place signs on the perimeter fence at fence entrance door.
 - (v) Unique identification such as address of WECS. If more than one WECS on access drive, units shall have further identification such that first responders can positively identify. An identification example is "321 Ruger Rd, Caro, MI Unit A"
- (7) Communication Interference: Each WECS and Testing Facilities shall be designed, constructed and operated so as not to cause radio and television or other communication interference. In the event that verified interference is experienced and confirmed by a licensed engineer, the Applicant must produce confirmation that said interference had been resolved to residents' satisfaction within ninety (90) days of receipt of the complaint. Any such complaints shall follow the process stated in Complaint Resolution section (g)(25).
- (8) Infrastructure Wiring: All electrical connection systems and lines from the WECS to the electrical grid connection shall be located and maintained underground. Burial depth shall be at a depth that causes no known environmental, land use, or safety issues. Depth shall be a minimum of 6ft below grade, be deeper than drain tile and be in compliance with NEC 2014 or newer Code standards. All utility lines shall be staked in the field, so as to provide notice to property owners as to the location of utilities, including installing a marker at 4-feet below-grade to identify the utility line location.

The Planning Commission may waive the burial requirement and allow above-ground structures in limited circumstances, such as geography precludes, or a demonstrated benefit to the township. The waiver shall not be granted solely on cost savings to Applicant. Request for variation shall consider aesthetics, future use of land, and effect on nearby landowners.

- (9) Road Damage: The Applicant shall post a financial security in the form of a surety bond from a surety company that is listed as an acceptable surety on Federal Surety Bonds in circular 570 of the U.S. Department of Treasury, or letter of credit from, or an escrow account established in, a financial institution licensed in the State of Michigan for the cost of repairs of Newaygo County roads within the Township, in an amount of \$1,250,000. The amount and standards for road repair work shall be determined by a third party road inspector appointed by mutual agreement of the Township, Applicant and Newaygo County Road Commission. The bond shall only be released (in whole or in part) when the Township Board, in consultation with the Newaygo County Road Commission and said third party inspector, determines that all required road work has been completed and approved by the road inspector in consultation with the Newaygo County Road Commission and/or MDOT. The Township may consult with the third party road inspector to verify the proposed bond amount of \$1,250,000. If the third party inspector determines that the amount needed for road repairs and upgrades is higher, the Applicant will post a financial security in the amount determined by the third

party inspector. All road repairs must be complete within ninety (90) days of project completion, or maintenance completion, but shall not exceed 365 days from project commencement or maintenance completion.

- (10) Road Use Agreement: The Applicant shall provide and execute a Road Use Agreement with the Township and shall file a copy of such Agreement with the Township Clerk before construction of any accessory road and/or road improvements. The Road Use Agreement is subject to review and approval of the Township attorney. The Applicant shall provide a written status report annually to the Township Board as to the ongoing scope of road work and shall also provide written notice to the Township Board when all required road work has been completed. The Township may require the renewal of the bond for road work to cover costs of road work to be completed in the future.
- (11) Liability Insurance: The current WECS owner and operator shall insure for liability for the WECS without interruption until removed and comply with section "Site Insurance" to protect the current WECS owner and operator, Township and property owner.
- (12) Coating and Color: A WECS shall be painted a non-obtrusive (light environmental color such as beige, gray or off-white) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.
- (13) Strobe Effect: Under no circumstances, shall a WECS or Testing Facility produce shadow flicker, or strobe-effect, on properties without a signed release from affected Participating and Non-Participating Landowners. Documents in full shall be recorded using only the WECS Waiver Form Revision 1 or later, with the Newaygo County Register of Deeds. Each wind turbine shall also use a shadow flicker mitigation system, including but not limited to the Vestas Shadow Detection System, or other similar system.
- (14) Ice Detection: The Applicant shall install an ice detection system on each turbine, including but not limited to the system developed by Vestas, or other similar system, to monitor ice formation on each wind turbine (WECS) and to facilitate immediate shutdown of any wind turbine if ice is detected on the turbine.
- (15) Fire Suppression: The Applicant shall provide and install on an WECS a fire suppression system, including but not limited to Fire Trace or other similar system, and insure that such system is operable at all times.
- (16) Voltage: The Applicant shall demonstrate WECS prohibits stray voltage, surge voltage, and power from entering ground, and shall correct any voltage issued that is caused by the WECS.
- (17) Protection of Adjoining Property: In addition to the other requirements and standards contained in this section, the Planning Commission shall not approve any WECS or Testing Facility unless it finds that the WECS or Testing Facility will not pose a safety hazard or unreasonable risk of harm to the occupants of any adjoining properties or area wildlife.
- (18) Removal and Site Renovation: A condition of every approval shall be adequate provision for the removal of the structure in its entirety whenever it ceases to actively produce power for one hundred eighty (180) days or more. The Planning Commission can grant an extension of an additional one hundred eighty (180) days upon the WECS owner demonstrating that the structure will be put back

into use. Removal shall include the proper receipt of a demolition permit from the Building Official and proper restoration of the site to original condition. Removal of the structure, wiring, and its accessory use facilities shall include removing the caisson and all other components in their entirety. Restoration must be completed within 365 days of nonoperation. The Planning Commission can grant an extension of one hundred eighty (180) days upon the WECS owner demonstrating that an extension is necessary.

- (i) Participating Landowners may waive complete underground wiring removal if they can demonstrate that any and all remaining underground wiring will not negatively affect environment, such as, but not limited to, water quality, natural water flow, or area wildlife. Participating Landowner shall execute a waiver and record same in full with Newaygo County Register of Deeds waiving these requirements.
- (19) WECS Height: The maximum Tip Height of any WECS or WECS Testing Facility shall not exceed 400 ft.
- (20) Avian Protection: Each wind turbine shall have a bird/bat sensor installed and utilized upon it.
- (21) Post-Construction Studies: The applicant shall prepare a post-construction avian and wildlife study 1-year post-construction, as well as 5-years post-construction of the completion of a WECS, which shall comply with the requirements of the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources. A copy of the study shall be provided to the Township Board.
- (22) Post-Construction Documents: The Applicant shall provide a complete set of as built drawings for electrical structures, collection lines and surface markings to the Township Clerk within 6 months of completing work on the WECS.
- (23) Operations Training: The Applicant shall provide training for the Ensley Township Fire Department and all fire departments that provide mutual aid to Ensley Township before beginning operations of the Utility Grid Wind Energy System and shall likewise provide regular training at least annually thereafter. The Applicant shall report annually to the Township Board as to the status of the training of the Township Fire Department, in addition to reporting annually to the Township Board of any incidents that required response by the Fire Department (or any Fire Departments responding via mutual aid) to the WECS.
- (24) Operational, Maintenance, and Issue Resolution: Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the Applicant shall take expeditious action to correct the situation, including WECS removal. The Applicant shall keep a maintenance log on each WECS and must provide complete log to the Township within thirty (30) days of request.
- (25) Complaint Resolution: A complaint resolution process shall be established by the township. The form shall be, but not limited to:
- (i) Receiving and Forwarding of Complaints: A third party answering switchboard, website or equivalent, paid for by the Applicant or WECS or Testing Facility owner. The cost to maintain and support shall be funded in the amount of \$10,000.00 and be replenished at least every five (5) years by the Applicant or WECS owner. The Planning Commission shall select a complaint resolution process that is independent of the facility operator or owner and that reports to the

Township first and operator second. Upon receiving a complaint, the Township shall forward said complaint to the WECS owner.

- (ii) Investigation of Complaints: Township shall initiate an investigation into a complaint within sixty (60) days utilizing escrow funds to hire the appropriate expert(s).
 - (iii) Hearing of Complaints: Township Board shall set a public hearing date within sixty (60) days of completion of Investigation of Complaints where experts, residents and/or Applicant may present information before the Township Board. Notice of hearing shall be via certified mail.
 - (iv) Decision of Complaints: Township Board shall issue a decision and corrective actions within forty-five (45) days from Hearing of Complaints.
- (26) Applicant shall be required as a condition of approval to fund an escrow account for investigation of complaints for, but not limited to, shadow flicker, stray voltage, noise, and signal interference to the amount of \$15,000.00 to be used at the discretion of the Ensley Township Board. When escrow account balance is below \$5,000.00, Township shall notify Applicant and Applicant shall replenish account in the amount of \$15,000.00 within 45 days.
- (27) Regulation of WECS Commercial and Industrial Noise: To preserve quality of life, peace, and tranquility, and protect the natural quiet of the environment. This ordinance establishes the acoustic baseline, background sound levels for project design purposes, and limits the maximum noise level emissions for commercial and industrial developments. Residents shall be protected from exposure to noise emitted from commercial and industrial development by regulating said noise.
- (28) The Township Board reserves the right to require WECS Applicant to shut down any WECS unit that does not meet ordinance requirements until such WECS unit meets ordinance requirements or is removed.
- (29) Complaints: If the Township Board confirms and issues a corrective action, SCADA data from WECS within 2 miles of issue shall be required and delivered to Township within twenty (20) days of notification. SCADA data format shall be determined by Township, Township licensed engineers, or Township professional acousticians. Unless otherwise requested, minimum SCADA data format shall be grouped in 24hr periods and 1 second intervals including wind vector, wind speed, temperature, humidity, time-of-day, WECS power output, WECS amps, WECS volts, WECS nacelle vector, WECS blade RPM, WECS blade pitch. Fees for providing SCADA data are not to exceed \$100/request. Residents shall have the right to also request SCADA data in at least the minimum format at the cost of \$200/WECS per time period requested. Common SCADA formats shall include meteorological and performance data such as, but not limited to, temperature, humidity, power output, RPM, wind velocity, wind direction, and nacelle vector. Data format shall be determined by Township, such as “csv” or “xlsx”.
- (30) Noise:
- (i) No WECS shall generate or permit to be generated audible noise from commercial or industrial permitted facilities that exceeds 39 dBA or 49 dBC (dBC to dBA ratio of 10 dB per ANSI standard S12.9 Part 4 Annex D) during the night 9 pm to 8 am for any duration, at a property line or any point within a NonParticipating property, unless Applicant provides documentation in the

form of a signed agreement by the Participating and Non-Participating Landowner waiving these requirements. Said documents in full shall be recorded with the Newaygo County Register of Deeds waiving these requirements. Documents in full shall be recorded using only the WECS Waiver Form Revision 1, or later, with the Newaygo County Register of Deeds.

- (ii) No WECS shall generate or permit to be generated plainly audible noise from commercial or industrial permitted facilities that exceeds 45 dBA or 55 dBC during the day 8 am to 9 pm for any duration, at a property line or at any point within a Non- Participating property, unless Applicant provides documentation in the form of a signed agreement by the Participating and Non-Participating Landowner waiving these requirements. Said documents in full shall be recorded with the Newaygo County Register of Deeds waiving these requirements. Documents in full shall be recorded using only the WECS Waiver Form Revision 1, or later, with the Newaygo County Register of Deeds.
- (iii) No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any acoustic, vibratory, or barometric oscillations in the frequency range of 0.1 to 1 Hz that is detectable at any time and for any duration by confirmed human sensation or exceeds a sound pressure level from 0.1 to 20 Hz of 50 dB(unweighted) re 20uPA or exceeds an RMS acceleration level of 50 dB(unweighted) re 1 micro-g by instrumentation at a Non-Participating Landowner's property line or at any point within a Non-Participating Landowner's property.
- (iv) No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any vibration in the low-frequency range of 0.1 to 20 Hz, including the 1, 2, 4, 8, and 16 Hertz octave bands that is perceivable by human sensation or exceeds an rms acceleration level of 50 dB(unweighted) re 1 micro-g at any time and for any duration either due to impulsive or periodic excitation of structure or any other mechanism at a Non-Participating Landowner's property line or at any point within a Non-Participating Landowner's property.
- (v) A tonal noise condition generated from commercial or industrial permitted facilities shall be assessed an upward noise penalty of 5 dBA (example 42 increased to 47 dBA) for assessment to the nighttime and daytime noise limits.
- (vi) A noise level measurement made in accordance with methods in section "NOISE MEASUREMENT AND COMPLIANCE" that is higher than 39 dBA or 49 dBC during the nighttime hours or 45 dBA or 55 dBC during the daytime hours, adjusted for the penalty assessed for a tonal noise condition, shall constitute prima facie evidence of a nuisance.
- (vii) An acoustic, vibratory or barometric measurement documenting oscillations associated to commercial or industrial permitted facilities with levels exceeding the limits in 23 shall constitute prima facie evidence of a nuisance.
- (viii) All commercial and industrial activity shall comply with limits and restrictions anywhere at any time on another property unless Applicant provides documentation in the form of a signed approval by affected Participating and Non-Participating Landowners. Documents in full shall be recorded with the Newaygo County Register of Deeds waiving these requirements. Documents in full shall be recorded using only the WECS Waiver Form Revision 1 or later, with the Newaygo County Register of Deeds.
- (ix) Leq 1-sec shall be used for all measurements and modeling.

(31) Ensley Township and its representatives shall have the authority to inspect the WECS (any of the wind turbines, the roads and/or accessory structures) upon reasonable notice of at least 24 hours to the Applicant. The Applicant may require that a representative of the Applicant accompany the Township and/or its representatives on any inspection.

(32) The Applicant shall enter a Host Agreement with Ensley Township regarding taxation.

(h) Noise Measurement and Compliance

- (1) Post construction validation and compliance testing shall include a variety of ground and hub height wind speeds, at low (between 6-9mph) medium (between 9-22mph) and high (greater than 22mph). SCADA data shall be provided in the format determined by Township, Township licensed engineers, or Township professional acousticians. Compliance noise measurements are the financial responsibility of the WECS owner of the facility and shall be independently performed by a qualified professional acoustician approved by the Planning Commission when directed by the Ensley Township Board or their designated agent. Compliance noise measurements shall not exceed the stipulated noise limits and shall assess for and apply tonal noise penalties when warranted.
- (2) **Quality:** Measurements shall be attended. All noise measurements shall (must) exclude contributions from wind on microphone, tree/leaf rustle, flowing water, and natural sounds such as tree frogs and insects. The latter two can be excluded by calculating the dBA noise level by excluding octave band measurements above the 1000 Hz band as in ANSI S12.100 3.11. The ANS-weighted sound level is obtained by eliminating values for octave bands above 1000 Hz, or one-third octave bands above 1250 Hz, and A-weighting and summing the remaining lower frequency bands. The wind velocity at the sound measurement microphone shall not exceed 3 m/s (7 mph, maximum) during measurements. A 7-inch or larger diameter windscreen shall be used. Instrumentation shall have an overall internal noise floor that is at least 5 dB lower than what is being measured. During testing of elevated sources including, but not limited to, wind turbines, the atmospheric profile shall be Pasquill Stability Class E or F preferred, Class D as alternate.
- (3) **Noise Level:** Noise measurements shall be conducted consistent with ANSI S12.18 Procedures for Outdoor Measurement of Sound Pressure Level and ANSI S12.9 Part3 (Quantities and Procedures for Description and Measurement of Environmental Sound – Part 3: Short-term Measurements with an Observer Present), using Type 1 meter, Aweighting, Fast Response.
- (4) **Tonal Noise:** Tonal noise shall be assessed using unweighted (linear) 1/3 octave band noise measurements with time-series, level-versus-time data acquisition. A measurement shall constitute prima facie evidence of a tonal noise condition if at any time (single sample or time interval) the noise spectrum of the noise source under investigation shows a 1/3 octave band exceeding the average of the two adjacent bands for by 15 dB in low one-third octave bands (10–125 Hz), 8 dB in middle-frequency bands (160–400 Hz), or 5 dB in high- frequency bands (500–10,000 Hz).
- (5) **Sample Metric and Rate:** Noise level measurements for essentially continuous nontime- varying noise sources shall be acquired using the Leq(Fast) metric at a sample rate of 1-per- second. For fluctuating or modulating noise sources including, but not limited to, wind turbines, a 10-per-second sample rate or faster shall be used. These sample rates shall apply to dBA, dBC and unweighted 1/3 octave band measurements.

- (6) Reporting: Measurements of time-varying dBA and dBC noise levels and 1/3 octave band levels shall be reported with time-series level-versus-time graphs and tables. Graphs shall show the sound levels graphed as level-vs-time over a period of time sufficient to characterize the noise signature of the noise source being measured. For 1-per-second sampling, a 5-minute-or-longer graph shall be produced. For 10-per-second sampling, a 30-second-or-longer graph shall be produced. Reporting shall identify, and graphs shall be clearly notated, identifying what was heard and when the noise source is dominating the measurement. Reporting shall furnish all noise data and information on weather conditions and, Pasquill Class occurring during testing.

(i) Compliance

- (1) All applicable requirements of the Zoning Ordinance must be met in their entirety as well as all other applicable laws, ordinances, and rules of the federal, state, county, and township governments. Any subsequent development or change on the property shall comply with all requirements of the Township Zoning Ordinance or other ordinances and regulations in effect at that time. Non-compliance with ordinance requirements during SLUP process shall result in denial or revocation of the permit.
- (2) Non-compliance with post-construction ordinance requirements shall result in fines (minimum \$250/day), permit denial, and WECS decommissioning.
- (3) Nuisance compliance complaints shall be resolved after section “Complaint Resolution” is completed. Applicant shall provide resolution plan within 30 days and resolve complaint within 90 days. WECS may be shut down during resolution time to extend resolution time to 180 days.
- (4) For non-nuisance compliance, and upon formal notice from Township or Resident to WECS permit holder, WECS permit holder shall respond within thirty (30) days with resolution plan, and up to one hundred eight (180) days to resolve compliance breach. Failure to resolve any compliance breach shall result in permit loss. Unless otherwise stated, Applicant shall provide in advance and comply with ordinance requirements prior to Township granting the permit. Conditional permits shall not be allowed.
- (5) In addition to any other remedies or complaint resolution procedures set forth in this Article, violations of this Article shall also constitute a municipal civil infraction in accordance with Ordinance Number 03-1. Each day on which any violation of this Article continues shall constitute a separate offense. The Township may bring an action for an injunction to restrain, prevent or abate any violation of this Article.
- (6) Upon change of ownership, operator or parent company, the Township shall receive from the new owner, operator or parent company notification and updated documents within 30 days including, but not limited to, legal proof of change, corporate legal contact, security bond updates, emergency contact, and local contact.

Section 3.49 WIRELESS COMMUNICATION FACILITIES (Adopted 11/13/18)

A. Definitions.

1. “Wireless communication facilities” shall mean and include all structures and accessory facilities related to the use of wireless communications.

2. “Colocation” shall mean the location by two (2) or more wireless communications providers of wireless communication facilities on a common structure with a view toward reducing the overall number of structures required to support wireless communication antennas in the community.

B. Intent and Purpose.

It is the general purpose and intent of the Township to allow for facilities needed to operate wireless communication systems. However, it is further the purpose and intent of the Township to provide authorization in a manner which will retain the character, property values, and aesthetic quality of the Township at large.

It is the further purpose and intent of this section to:

1. Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
2. Avoid inappropriate physical and aesthetic overcrowding of land use activities and adverse impact upon existing population, transportation systems, and other public services and facility needs.
3. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
4. Minimize the negative visual impact of wireless communication facilities. This considers the establishment of as few structures as feasible, the use of structures which are compatibly designed, and the use of existing structures.
5. Allow for compliance with State and Federal legislation, requirements and procedures for wireless communication facilities requests.

C. Procedures.

1. Review and administrative actions on special land use approval applications.
 - a. The Zoning Administrator shall promptly review special land use and site plan approval applications for wireless communication facilities to determine if they are administratively complete by inclusion of all information required in Subsection D hereof. If the application is not complete, no later than 14 business days after receiving it, the Zoning Administrator shall provide a written or electronic notice to the applicant specifying the information necessary to complete the application. Such initial review for completeness by the Zoning Administrator shall be on behalf of the Planning Commission for special land use approvals.
 - b. The Zoning Administrator shall review all supplemental information submitted in response to an incomplete application notice and notify the applicant of any remaining deficiencies.
 - c. An application shall be administratively complete upon the Zoning Administrator’s determination or the expiration of 14 business days from receipt of the application without a notice to the applicant by the Township of deficiencies.

- d. Upon a special land use approval application being administratively complete, the Zoning Administrator shall promptly schedule it for a Planning Commission meeting that will allow for a Planning Commission special land use decision after the required public hearing within the time periods specified in Subsection 2 below.
2. Decisions on special land use and site plan approval applications.
 - a. The Planning Commission shall approve or deny a special land use application for a new wireless communications support structure not more than 90 days after it is administratively complete. Any denial shall be made in writing and supported by evidence contained in a written record.
 - b. For all special land use applications other than new wireless communications support structures, the Planning Commission shall approve or deny the application not more than 60 days after it is administratively complete.
 3. Post-approval costs, fees and administrative actions.

Zoning permits to implement and grant the authority allowed by a special land use approval for wireless communication facilities, and zoning certificates of use and occupancy for such facilities, shall be issued subject to and conditioned on any conditions of the special land use and site plan approval.

D. Authorization as a Special Land Use.

Wireless communication facilities require approval as a special land use, which shall be subject to the standards and conditions set forth in this Ordinance.

1. Wireless communication facilities may be allowed in the Township as a special land use, subject to the following:
 - (a) The applicant shall demonstrate that no existing structure can reasonably meet the disclosed service, coverage and/or capacity needs of the applicant. Such demonstration requires identification of all existing structures and properties considered and a factual explanation of why they are not feasible in terms of availability, suitability, or otherwise.
 - (b) The applicant's willingness to identify, evaluate and consider alternate sites, locations, designs, placements, or features for the proposed facility that would or could be more consistent with the ordinance purposes.
2. Review Standards and Conditions.

All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions.

- (a) The facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
- (b) The facilities shall be located and designed to be compatible with the existing character of the proposed site and harmonious with surrounding areas.

- (c) The facilities shall comply with applicable federal and state standards, and Federal Communications Commission's regulations.
- (d) Applicants shall demonstrate an engineering justification for the proposed height of the support structure, and an evaluation of alternative designs and locations which might result in lower heights. Support structures shall not exceed the minimum height necessary for collocation by at least two (2) providers, or by a larger number of providers identified and disclosed in the application as intending and contracted or otherwise committed to use of the structure. Except as needed for communication services, and regardless of the number of collocators, wireless communication support structures shall not exceed a height of 275 feet in all AR districts. All other districts shall not exceed 150 feet. The accessory building(s) to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
- (e) The minimum setback of the support structure, accessory building(s) and equipment compound from an adjacent boundary of any property shall be equal to the height of the support structure or a lesser distance as reasonably demonstrated to the Planning Commission by the applicant.
- (f) There shall be unobstructed access to the support structure, accessory building(s) and equipment compound, for police, fire and emergency vehicles, and for operation, maintenance, repair and inspection purposes; this may be provided through or over an easement.
- (g) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
- (h) The equipment enclosure may be located within the principal building, an accessory building, or in an equipment compound with landscaping and screening approved by the Township upon a demonstration by the applicant that placement of the equipment inside a building is not practical. If proposed as an accessory building or equipment compound, it shall conform to all district requirements for principal buildings, including yard setbacks.
- (i) It shall be the responsibility of the applicant to maintain the wireless communication facility in a safe, neat and orderly condition at all times. Signage or lighting is only allowed if required by, and in compliance with the standards of, the Federal Aviation Administration, Federal Communications Commission, Michigan Aeronautics Commission, other governmental agencies, or the Township as a special use approval condition. Any such requirements and standards shall be documented by the Applicant.
- (j) Support structures shall be constructed and maintained in accordance with all applicable building codes. Any approval or certification under this ordinance shall be subject to and conditioned on the construction code building official's authority to require and be provided with a soils report from a geotechnical engineer, licensed in the State of Michigan, based on actual soil borings and certifying the suitability of soil conditions
- (k) A maintenance plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

E. Application Requirements.

All of the following information and documents shall be required for a special land use application to be considered complete:

1. A site plan shall be submitted, showing the location, size, screening, lighting and design of all buildings and structures, including property lines and proposed setbacks.
2. The site plan shall also include a landscape plan if required by the planning commission. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. This is typically the case when seen from the road or adjacent residences. In all cases, fencing of a minimum of eight (8) feet in height shall be required for protection and security of the support structure.
3. The application shall include a description of security (i.e. a bond or irrevocable letter of credit) to be posted with the Township at the time of receiving a building permit to ensure removal of the facility when it has been abandoned or is no longer needed.
4. A map or plan showing the locations and heights of existing wireless communications support structures near the proposed structure or within the Township or adjacent municipalities, and which identifies structures the Applicant is using or has the right to use and the heights at which its antennas are or may be installed.
5. An application fee in an amount established by resolution or motion of the Township Board.
6. If the application is for a new wireless communication support structure or to place or install additional wireless communications equipment on an existing support structure a certification to the Township by a registered professional engineer that the structure is designed to support, or capable of supporting the proposed wireless communications equipment. Any modifications necessary to a structure being capable of supporting the proposed equipment shall be specifically identified in the certification.
7. If the application is for a new wireless communications support structure or to increase the height of an existing structure, a written analysis and justification by a registered engineer that the proposed height is the minimum necessary for the provision of personal wireless services and two additional colocations.
8. If the application is for a new wireless communications support structure, identification of all other structures and properties considered for the proposed use and a factual explanation of why they are not feasible in terms of availability, suitability, or otherwise.
9. If the application is for a new wireless communications support structure, identification of possible alternative locations, whether those alternatives were considered, and if so, a factual explanation of why those alternatives are not proposed.
10. The applicant's email address, phone number or address to which the Township should direct notices regarding the application.
11. Proof of the applicant as a licensed wireless service provider or rendering services for a licensed service provider.

F. Collocation.

1. Statement of Policy. It is the policy of the Township to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structure and encourage the use of existing structures for attached wireless communication purposes, it is the policy of the Township that all users should collocate on attached wireless communication facilities and wireless communication support structures where possible.

2. Feasibility of collocation.

Collocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:

- a. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
- b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- c. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- d. The height of the structure necessary for collocation will not be increased beyond 10 % of existing height for any additional collocation, limited to a single extension after initial construction.

3. Requirements for Collocation.

- a. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- b. The policy of the community is for collocation.

G. Removal.

1. A wireless communication facility must furnish to the Township reasonable evidence of ongoing operation at any time after construction.
2. A condition of every approval of a wireless communication facility shall be removal of all or part of the facility by users and owners when the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
3. If removal of all or part of a facility is required, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.
4. The required removal of a facility or a portion thereof shall be lawfully completed within 60 days of the period of nonuse under Subsection 2, above. If removal is not completed within that time,

after at least 30 days prior written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security (bond) posted at the time application was made for establishing the facility.

Section 3.50 SOLAR FARMS (Amended 7/24/2019)

A. Definition of a Solar Farm:

A solar farm is an area of land designated for the purpose of producing photovoltaic electricity. The power generated is sold or transferred to electric companies or others for distribution throughout the power grid. Solar farms can cover one (1) acre or more acres and are usually developed in rural areas. In addition, any lot with solar panels totaling 20,000 square feet or more shall also be considered a solar farm.

B. Intent and Purpose

The intent of this Section is to provide for the land development, installation and construction regulations for large photovoltaic solar farm facilities subject to reasonable conditions that will protect the public health, safety and welfare. These regulations establish minimum requirements and standards for the placement, construction and modification of solar farm facilities.

It is the further purpose and intent of this section to:

1. Avoid inappropriate physical and aesthetic overcrowding of land use activities and adverse impacts upon the existing population, transportation systems, and other public services and facility needs.

2. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
3. Minimize the negative visual impact of solar farms.
4. Allow for compliance with State and Federal laws, requirements and procedures for solar farms.

C. Procedures

1. Review and administrative actions for special land use approval applications.
 - a. Solar farms require special land use approval.
 - b. The Zoning Administrator shall review special land use and site plan applications for solar farms to determine if they are administratively complete by the inclusion of all required information. If the application is not complete, the Zoning Administrator shall provide notice to the applicant specifying the information necessary to complete the application.
 - c. The Zoning Administrator shall review all supplemental information submitted in response to an incomplete application notice and notify the applicant of any remaining deficiencies.
 - d. An application shall be administratively complete upon the Zoning Administrator's determination.
 - e. Upon a special land use approval application being administratively complete, the Zoning Administrator shall schedule it for Planning Commission review.
2. Decisions on special land use and site plan approval applications.

- a. The Planning Commission shall approve, approve with conditions or deny a special land use application for a new or expanded solar farm after it is administratively complete. Any denial shall be made in writing and supported by evidence contained in a written record.
- b. The Planning Commission shall apply the standards in this Section and also Section 13.02 of this Ordinance when considering the special land use request.

3. Post-approval costs, fees and administrative actions.

Zoning permits to implement and grant the authority allowed by a special land use approval for a solar farm, and certificates of occupancy for such facilities, shall be issued subject to any conditions of the special land use and site plan approval.

D. Authorization as a Special Land Use

Solar farms require approval as a special land use, which shall be subject to the standards and conditions set forth in this Ordinance.

1. Solar farms are only allowed in the A-R Agricultural Residential zoning district.
2. Minimum Lot Size: Solar farm facilities shall not be constructed on parcels less than twenty (20) acres in size.
3. Height Restrictions: All photovoltaic panels located in a solar farm shall be restricted to a height of fourteen (14) feet.
4. Setbacks: All photovoltaic solar panels and support structures associated with such facilities (excluding perimeter security fencing) shall be a minimum of ten (10) feet from a side or rear property line and a minimum of twenty (20) feet from any road or highway easement or right-of-way.

5. Maximum Lot Coverage: Maximum lot coverage restrictions shall not apply to photovoltaic solar panels. Any other regulated structures on the lot are subject to maximum lot coverage restrictions.
6. Safety/Access: A security fence (the height and material to be established through the special land use process) shall be placed around the perimeter of the solar power facilities and electrical equipment and shall be locked. Access agreements shall be provided for locked entrances for emergency personnel access.
7. Noise: No noise from solar farm facilities shall exceed sixty-five (65) dBA as measured at any property line.
8. Landscaping:
 - a. Solar farm facilities shall be required to install perimeter landscaping equal to one (1) tree for each twenty-five (25) feet of road or highway frontage.
 - b. The equivalent of one (1) tree shall be required along the sides and rear of such developments equal to one (1) tree every twenty-five (25) feet of property line when abutting existing homes or developed parcels.
 - c. The Planning Commission may alter the landscaping requirements depending upon the location and existing plant material on the site. Trees shall be a minimum of four (4) feet tall when planted and remain in good condition for the life of the large photovoltaic solar farm.
 - d. Alternative visual amenities may be considered at the discretion of the planning commission.

9. Local, State and Federal Permits: Solar farm facilities must obtain all necessary permits from the U.S. Government, State of Michigan, and Ensley Township, and shall comply with all standards of State of Michigan codes.
10. Monetary security: The Planning Commission may require that the applicant or property owner file with the Township monetary security, an irrevocable letter of credit (with an acceptable surety) or a performance bond (in an amount and form approved by the Township) in an amount reasonably necessary to ensure compliance (including removal of the facilities) with the zoning approval, this Ordinance, and all other applicable requirements.

E. Additional Review Standards and Conditions and Application Requirements

1. Electrical Interconnections: All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be prohibited within the site.
2. Project description and rationale: The applicant must identify in writing the type, size, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, and model. The applicant must identify the time frame, project life, development phases, likely markets for the generated energy, and possible future expansion.
3. Analysis of onsite traffic: The applicant must list estimated temporary construction jobs and estimated permanent jobs associated with the development.

4. Visual impacts: The applicant must review and demonstrate the visual impact using photos or renditions of the project or similar projects with consideration given to tree plantings and setback requirements.
5. Wildlife: The applicant must review potential impact on wildlife on the site.
6. Environmental analysis: The applicant must identify the impact on the water quality and water supply in the area, and dust from project activities.
7. Waste: The applicant must identify solid waste or hazardous waste generated by the project.
8. Lighting: The applicant must provide a lighting plan showing all lighting within the facility. No light may adversely affect adjacent parcels. All lighting must be shielded from adjoining parcels.
9. Transportation plan: The applicant must provide an access plan during construction and operation phases and show proposed project service road ingress and egress accesses onto primary and secondary routes and the layout of the plant service road system. Due to infrequent access to such facilities after construction is completed, it is not required to pave or curb solar panel access drives.
10. Public safety: The applicant must identify emergency and normal shutdown procedures and identify potential hazards to adjacent properties, public roadways, and to the community in general that may be created.
11. Telecommunications interference: The applicant must identify electromagnetic fields and communications interference generated by the project.

12. Life of the project and final reclamation: The applicant must describe the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final removal of power generating equipment.
13. The Planning Commission Review: Because of the ever-changing technical capabilities of photovoltaic solar panels and of new technology in general, the Planning Commission shall have the authority to review and consider alternatives in both dimensional requirements as well as physical development requirements found in this Section 3.50. The Planning Commission shall not have the authority to review or to allow solar farm facilities within any zoning district other than the A-R zoning district.

F. Removal.

1. A condition of every approval of a solar farm shall be the removal of all or part of the components by the users and landowners when the facility has not been used for 180 consecutive days or more. For purposes of this section, the removal of transmission lines or other equipment or the cessation of operations (transmission of electricity) shall be considered as the beginning of a period of nonuse.
2. If removal of all or part of a facility is required, the property owner or persons who had used the facility shall immediately apply for and secure all required demolition or removal permits, and immediately proceed with and complete the demolition/removal and restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

3. The required removal of a facility (or a portion thereof) shall be lawfully completed within 60 days once begun. If removal is not completed within that time period, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charges to be drawn or collected from the security bond or other monetary guarantees posted with the Township for establishing the facility.

3.51 TO 3.99 RESERVED FOR FUTURE USE

**CHAPTER 4
MAPPED DISTRICTS**

SECTION 4.00 DISTRICTS

Ensley Township is hereby divided into the following Districts:

ABBREVIATION	DISTRICT NAME	ORDINANCE CHAPTER
A-R	Agricultural Residential	Chapter 5
R-L	Lake Resort Residential	Chapter 6
R-S	Suburban Residential	Chapter 7
R-A	Apartment	Chapter 8
C	Commercial	Chapter 9
I	Industrial	Chapter 10
R-MH	Mobile Home Park	Chapter 11
PUD	Planned Unit Development	Chapter 15

SECTION 4.01 ZONING MAP

- A. The locations and boundaries of the Districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Zoning Map of Ensley Township, Newaygo County, Michigan," which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of Districts as shown on the zoning map, the following rules of construction and interpretation shall apply.
1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 3. Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.
 4. Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or lake or stream beds, and in the event of change in the location of shorelines or lake or stream beds, shall be construed as moving with the shoreline and lake or stream bed.
 5. Lines parallel to streets without indication of the depth from the street line shall be construed as having a depth of two hundred (200) feet from the front lot line.
 6. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.
- B. Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the District to which it attaches. If a vacated area is bordered by two different Districts, the area shall be divided along a line half-way between them according to the adjacent District,

unless the Township Board shall otherwise designate.

SECTION 4.02 AREAS NOT INCLUDED WITHIN A DISTRICT

In every case where land has not been included within a District on the zoning map, such land shall be in the A-R District.

SECTION 4.03 DISTRICTS NOT DISPLAYED ON ZONING MAP

Certain zone districts have been included within this Ordinance which, due to lack of present demand and necessary infrastructure, do not appear on the Ensley Township Zoning Map. These zones are reserved for future use based on such factors as demand, placement of necessary infrastructure to support identified uses, and like factors.

SECTIONS 4.04 TO 4.99 RESERVED FOR FUTURE USE

CHAPTER 5

A-R RURAL RESIDENTIAL DISTRICT

SECTION 5.00 DESCRIPTION AND PURPOSE

This District is intended to primarily conserve and protect lands determined suitable and appropriate for farming and agricultural operations and to foster the rural character of the Township. The District shall also accommodate low density residential development and other uses generally associated with agricultural and rural residential uses. As a recognized agricultural district, certain impacts such as odors, noise, application of chemicals, and other external impacts typically associated with farming operations shall be recognized and reasonably tolerated provided they do not pose a threat to the general health, safety, and welfare of Township residents.

SECTION 5.01 PERMITTED USES

Land and/or buildings in the A-R District may be used for the following purposes as Permitted Uses:

- A. Farms for both general and specialized farming, together with farm dwelling and buildings and other installations useful to such farms, including roadside stands with less than two-hundred (200) square feet of sales area for produce grown on the premises.
- B. Sale of animal feed, seed, fertilizers, and related farm products when conducted as part of a bona fide farming operation and when located on the premises of said farming operation.
- B. Single-family dwellings.
- C. Family day care homes.
- D. Home occupations.
- E. Accessory buildings, structures and uses customarily incidental to a Permitted Use.
- H. Any property, facility or structure owned by Ensley Township which is used for administration, education, or recreation by the Township government or the general public, including, but not limited to, parks, nature preserves, township halls or similar buildings, community centers, farm markets, picnic areas, and playgrounds.

SECTION 5.02 SPECIAL LAND USES

Land and/or buildings in the A-R District may be used for the following as Special Land Uses subject to review by the Planning Commission and approval by the Township Board as a Special Land Use.

- A. Country clubs, golf courses, riding stables, and publicly-owned athletic grounds and parks, and other similar uses, including related uses, such as snack bars, pro-shops restaurants, and small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.
- B. Roadside stands exceeding two-hundred (200) square feet of sales area for sale of produce grown on the premises.
- C. Commercial greenhouses and nurseries.
- D. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- E. Public or private campgrounds.
- F. Radio and television transmitting buildings, towers and wireless communications facilities (amended 11/13/2018).
- G. Schools, churches, libraries, parks, playgrounds and community center buildings.
- H. Single family site condominium projects.
- I. Group day care homes.
- J. Sawmills.

- K. Produce/vegetable packaging plant.
- L. Farm implement sales and repair.
- M. Sale of animal feed, seed, fertilizers, and related farming products unless conducted as part of a bonafide farming operation with said operation not requiring a Michigan Sales Tax License.
- N. Utility and public service buildings, including storage yards.
- O. Junk yards and salvage yards.
- P. Nursing homes.
- Q. Private roads.
- R. Kennels. (Amended June 14, 2006)
 1. Minimum lot area shall be ten (10) acres for a kennel of a maximum of 16 adult dogs, Which includes outdoor exercise areas and/or dog run.
 2. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located nearer than two hundred (200) feet to any lot line and two hundred (200) feet from the right-of-way.
 3. All dogs shall be kept indoors between the hours of 10:00 PM and 6:00 AM. All sleeping quarters and runs shall be adequately designed and constructed to protect the health and Safety of the dogs throughout the year during periods of inclement weather.
 4. All dogs shall be kept under sanitary conditions and in sanitary enclosures. The permit may be revoked if the premises become unsanitary or if the objectionable noise or odors emanate from the premises.
 5. All dog kennels shall be operated in conformance with all applicable county and state regulations.
- S. Wind Energy Systems
- T. Home Based Businesses (Amended 6/22/2016)

SECTION 5.03 SCHEDULE OF A-R DISTRICT REGULATIONS

No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, shall hereafter occur unless the following requirements are met and maintained in connection with such building, structure, use, or enlargement.

A-R District Schedule
[Refer to Chapter 13 for additional requirements for Special Uses]

SETBACK/DIMENSIONAL ITEM	STANDARD/REQUIREMENT
FRONT YARD	30 feet
SIDE YARD	Residential Use - 30 feet [each side]
	Non-Residential Use - 50 feet [each side]
REAR YARD	30 feet
BUILDING HEIGHT	35 feet or 2½ stories [least one]
LOT COVERAGE	25%
MINIMUM LOT AREA	1 acre
MINIMUM LOT WIDTH	109 feet [at front setback line]
MINIMUM DWELLING UNIT FLOOR AREA	a) One Story - 720 square feet b) Above One Story - Ground floor area no less than 600 square feet.

SECTIONS 5.04 TO 5.99 RESERVED FOR FUTURE USE

CHAPTER 6 R-L LAKE RESORT RESIDENTIAL

SECTION 6.00 DESCRIPTION AND PURPOSE

This District is designed to permit the placement of seasonal and year-round one family dwellings on lake front property and to provide for uses customarily associated with such development. District regulations recognize the fragile nature of the township's natural water bodies and have been designed to avoid contamination and destruction of lakes and streams. Additionally, it is the intent of the regulations to recognize and protect the riparian rights of lake front property owners.

SECTION 6.01 PERMITTED USES

Land and/or buildings in the R-L District may be used for the following purposes as Permitted Uses:

- A. Single-family dwellings.
- B. State licensed residential family care facilities; provided that such facility is not located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for six (6) or less minors or adults.
- C. Family day care homes.
- D. Home occupations.
- E. Single family site condominiums with no private roads.
- F. Accessory buildings, structures and uses customarily incidental to a Permitted Use.
- G. Any property, facility or structure owned by Ensley Township which is used for recreation by the general public, including, but not limited to, parks, nature preserves, playgrounds, community centers, boat launching sites, public docks, swim beaches, picnic areas and athletic grounds.

SECTION 6.02 SPECIAL LAND USES

Land and/or buildings in the R-L District may be used for the following as Special Land Uses subject to review by the Planning Commission and approval by the Township Board as a Special Land Use.

- A. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- B. State licensed residential group care facilities.
- C. Group and commercial day care homes and facilities.
- D. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- E. Schools, churches, libraries, parks, playgrounds and community center buildings.
- E. Motels and lodges.
- F. Single family site condominiums incorporating private roads.

SECTION 6.03 DISTRICT REGULATIONS

No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, shall hereafter occur unless the following requirements are met and maintained in connection with such building, structure, use, or enlargement. [See also Section 3.26, Riparian Access provisions.]

R-L District Schedule

[Refer to Chapter 13 for additional requirements for Special Uses]

SETBACK - DIMENSIONAL ITEM	STANDARD
FRONT YARD	Single Family Dwellings with lake frontage - 50 feet, measured from the shoreline to the building line of the main building
	Single Family Dwellings without lake frontage - 50 feet
SIDE YARD	Single Family Dwellings - 20 feet total/10 feet minimum
	Non-Residential Buildings - 60 feet [each side]
REAR YARD	Lots with lake frontage - 25 feet measured from the public or private road right-of-way
	Lots without lake frontage - 50 feet
BUILDING HEIGHT	35 feet or 2½ stories [least one]
LOT COVERAGE	30%
MINIMUM LOT AREA	<u>Single Family Dwellings</u> 15,000 square feet with public sanitary sewer service 18,000 square feet without public sanitary sewer service
	Non-Residential Uses - 2 acres
MINIMUM LOT WIDTH	100 feet
MINIMUM DWELLING UNIT FLOOR AREA	a) One Story -720 square feet b) Above One Story - Ground floor area no less than 600 square feet.

SECTIONS 6.04 TO 6.99 RESERVED FOR FUTURE USE

<p style="text-align: center;">CHAPTER 7 R-S SUBURBAN RESIDENTIAL DISTRICT</p>
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SECTION 7.00 DESCRIPTION AND PURPOSE

This District is intended for single family residential development located in the growth sectors of the township which have been planned for future public water and sanitary sewer. Such areas include, but are not limited to, the fringe locations of certain agricultural districts which are experiencing transition to non-agricultural use. The planned provision of utilities offers opportunity for placement of homes at a density level generally greater than those districts not programmed for similar services.

SECTION 7.01 PERMITTED USES

Land and/or buildings in the R-S District may be used for the following purposes as Permitted Uses:

- A. Single-family dwellings, including single-family site condominiums with no private roads.
- B. Farms for both general and specialized farming, together with farm dwelling and buildings and other installations useful to such farms.
- C. Customary gardening.
- D. State licensed residential family care facilities; provided that such facility is not located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for six (6) or less minors.
- E. Family day care homes.
- F. Home occupations.
- G. Schools, churches, libraries, parks, playgrounds and community center buildings.
- H. Accessory buildings, structures and uses customarily incidental to any of the above permitted uses.

SECTION 7.02 SPECIAL LAND USES

Land and/or buildings in the R-S District may be used for the following purposes following review by the Planning Commission and approval by the Township Board as a Special Land Use.

- A. Roadside stands for the sale of produce grown on the premises.
- B. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- C. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- D. Group day care homes.
- E. Single-family site condominiums incorporating private roads

SECTION 7.03 DISTRICT REGULATIONS

No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, shall hereafter occur unless the following requirements are met and maintained in connection with such building, structure, use, or enlargement.

R-S District Schedule
[Refer to Chapter 13 for additional requirements for Special Uses]

FRONT YARD	30 feet
SIDE YARD	15 feet minimum/35 feet total 2 sides
REAR YARD	25 feet
BUILDING HEIGHT	35 feet or 2½ stories [least one]
LOT COVERAGE	25%
MINIMUM LOT AREA	<u>Single Family Dwellings</u> 18,000 square feet with public sanitary sewer service - 25,000 square feet without public sanitary sewer service
	Non-Residential Uses - 2 acres
MINIMUM LOT WIDTH	110 feet
MINIMUM FLOOR AREA	a) One Story - 720 square feet b) Above One Story - Ground floor area no less than 600 square feet.

SECTIONS 7.04 TO 7.99 RESERVED FOR FUTURE USE

<p>CHAPTER 8 R-A APARTMENT DISTRICT</p>

SECTION 8.00 DESCRIPTION AND PURPOSE

The R-A Apartment District represents locations appropriate for high density residential development of a clustered and/or attached variety. This includes residential housing such as apartments, townhouses, condominiums, cluster housing, and similar housing and project design types. R-A uses are served by public water and sanitary sewers or comparable private systems capable of supporting higher residential densities. R-A Districts have ready access to adjacent season roads. The R-A District also permits, with special approval, certain health, institutional, and commercial uses.

SECTION 8.01 PERMITTED USES

Land and/or buildings in the R-A District may be used for the following purposes as Permitted Uses:

- A. Two-family dwellings/duplexes.
- B. Family day care home.
- C. Two-family dwellings/duplexes.
- D. Apartments.

SECTION 8.02 SPECIAL LAND USES

Land and/or buildings in the R-A District may be used for the following purposes following review by the Planning Commission and approval by the Township Board as a Special Land Use.

- A. Group day care home.
- B. Nursing homes.
- C. Apartments and condominiums in single ownership on one (1) parcel of property.
- D. Professional offices offering medical, dental, realty, insurance, legal, data processing, clerical, engineering, architecture, drafting, and similar uses.
- E. Buildings and facilities associated with civic organizations, schools, fraternal organizations, and similar organizations and institutions.
- F. Utility and public service buildings, without storage yards.

SECTION 8.03 SCHEDULE OF R-A DISTRICT REGULATIONS

No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, shall hereafter occur unless the following requirements are met and maintained in connection with such building, structure, use, or enlargement.

R-A District Schedule
[Refer to Chapter 13 for additional requirements for Special Land Uses]

FRONT YARD	25 feet
SIDE YARD	15 feet minimum/35 feet total 2 sides

REAR YARD	25 feet
BUILDING HEIGHT	35 feet or 2½ stories [least one]
LOT COVERAGE	25%
MINIMUM LOT AREA	<u>One and Two Family</u> One Family - 18, 000 square feet Two Family - 25,000 square feet
	<u>Multiple Family Dwelling (3 or more units)</u> 10,000 square feet per unit [Initial minimum lot size no less than 1 acre]
	Other Uses - 2 acres
MINIMUM LOT WIDTH	One and Two Family - 110 feet Multiple Family and Other Uses - 150 feet
MINIMUM FLOOR AREA	720 square feet UFA per unit

SECTIONS 8.04 TO 8.99 RESERVED FOR FUTURE USE

CHAPTER 9 C - COMMERCIAL DISTRICT

SECTION 9.00 DESCRIPTION AND PURPOSE

This District is intended to provide appropriate locations for the accommodation of uses meeting the office, personal service, retail needs, and other business needs of the residents and visitors of Ensley

SECTION 9.01 PERMITTED USES

Land and/or buildings in the "C" District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 12.

- A. Office buildings for any of the following occupations:
 - 1. Executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the Zoning Administrator.
 - 2. Medical and dental offices and clinics.
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the Zoning Administrator, including those with drive-through facilities.
- C. Personal service establishments conducting services on the premises, including barber and dry-cleaning service outlets, beauty shops, fitness centers, travel agencies, and other similar uses, as determined by the Zoning Administrator.
- D. Retail stores, providing goods within a completely enclosed building.
- E. Drug stores and pharmacies.
- F. Restaurants, exclusive of drive-through facilities.
- G. Private clubs, fraternal organizations, and lodge halls.
- H. Dry-cleaning and laundry establishments performing cleaning operations on the premises, including retail/service operations.
- I. Indoor recreational facilities, excluding bowling alleys.
- J. Commercial child care centers.
- K. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- L. Accessory buildings, structures, and uses.

SECTION 9.02 SPECIAL LAND USES

Land and/or buildings in the C District may be used for the following purposes following review by Planning Commission and approval by the Township Board as a Special Land Use.

- A. Commercial greenhouses and nurseries.
- B. Commercial kennels.
- C. Funeral homes and mortuary establishments.
- D. Hotels and motels.
- E. Theaters, or similar places of public assembly, as determined by the Zoning Administrator.
- F. Restaurants with drive-through facilities.
- G. Vehicle service stations, including vehicle service stations that include retail sales of convenience goods. A body shop or body shop uses are excluded from this subsection G. (Amended 4/5/2011)
- H. Vehicle wash establishments, either self-serve or automatic.
- I. Open air businesses.
- J. Veterinary hospitals and animal clinics.
- K. Bowling alleys.
- L. Commercial storage warehouses.

SECTION 9.03 SITE DEVELOPMENT REQUIREMENTS (GENERAL)

No building or structure, nor the enlargement of any building or structure, shall be thereafter erected unless the

following requirements are met and maintained in connection with such building, structure, or enlargement.

- A. The outdoor storage of goods or materials shall be prohibited in the required front yard. Goods or materials stored in the side or rear yard shall be screened from the view from the street or from abutting properties.
- B. All commercial sites shall be developed in a fashion which promotes pedestrian safety, proper vehicular access, limited curb cuts to the public highway system, and due consideration to the rural residential character of Ensley Township.
- C. Commercial uses abutting a residential or agricultural use or district shall provide a landscape buffer (greenbelt) along the abutting side of no less than fifteen (15) feet.

SECTION 9.04 SCHEDULE OF COMMERCIAL DISTRICT REGULATIONS

No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, shall hereafter occur unless the following requirements are met and maintained in connection with such building, structure, use, or enlargement. However, structures lawfully existing as of January 1, 2011 shall be deemed to be conforming in regard to height, required yards, lot area, lot width, and lot coverage. Existing structures that violate setback requirements shall be permitted to be enlarged or altered so long as the existing structure’s setbacks are not decreased (i.e., do not encroach further into the setback area). In no case shall an existing structure be enlarged or expanded such that the structure extends into the public or private road right-of-way. If existing structures are enlarged or expanded, the total area of all principal buildings, accessory buildings, and structures on a lot shall not exceed a coverage or 40% of the lot area of that lot. (Amended 4/5/2011)

Commercial District Schedule
[Refer to Chapter 13 for additional requirements for Special Uses]

FRONT YARD	75 feet
	The first 35 feet of the front yard area, except for necessary entrance drives, shall be landscaped.
SIDE YARD	Side abutting Residential Districts or uses - 50 feet
	Side abutting other Districts - 25 feet
	Street side of a corner lot - 50 feet
REAR YARD	25 feet
LOT COVERAGE	40%
BUILDING HEIGHT	35 feet or 2½ stories
MINIMUM LOT AREA	1 acre
MINIMUM LOT WIDTH	100 feet

SECTION 9.05 TO 9.99 RESERVED FOR FUTURE USE

CHAPTER 10

I - LIGHT INDUSTRIAL DISTRICT

SECTION 10.00 DESCRIPTION AND PURPOSE

This District is intended to accommodate wholesale, warehousing, light manufacturing, storage, and other industrial-related uses which have minimum potential impact on surrounding property.

SECTION 10.01 PERMITTED USES

Land and/or buildings in the "I" District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 12.

- A. Office buildings for executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the Zoning Administrator.
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the Zoning Administrator, including those with drive-through facilities.
- C. Research and development facilities, including production activities.
- D. Wholesale establishments.
- E. The manufacture, compounding, processing, packaging, warehousing, or treatment of such products as foodstuffs (excepting slaughterhouses or other similar uses), cosmetics, pharmaceuticals, pottery or other ceramic products, musical instruments, toys, furniture, molded rubber products, electrical appliances, electronic instruments, signs, light sheet metal products, hardware, tool, die, gauge, and machine shops, excluding stamping operations.
- F. Laboratories (experimental, film, or testing).
- G. Dry-cleaning and laundry establishments performing cleaning operations on the premises, excluding retail/service operations.
- H. Trade or industrial schools.
- I. Utility and public service buildings, including storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- J. Contractor's showrooms and storage yards.
- K. Accessory buildings, structures, and uses.

SECTION 10.02 SPECIAL LAND USES

Land and/or buildings in the I District may be used for the following purposes following review by Planning Commission and approval by the Township Board as a Special Land Use.

- A. Body shops.
- B. Lumber and planing mills.
- C. Metal plating, buffing, and polishing.
- D. Commercial storage warehouses.
- E. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- F. Junk yards, salvage yards.
- G. Adult uses.

SECTION 10.03 SITE DEVELOPMENT REQUIREMENTS (GENERAL)

No building or structure, nor the enlargement of any building or structure, shall be thereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

- A. The outdoor storage of goods or materials shall be screened from the view from the street or from abutting properties.
- B. All industrial activities shall be conducted wholly within a completely enclosed building, except for loading

and unloading operations and on-site parking of vehicles.

- C. Industrial uses abutting a residential or agricultural use or district shall provide a landscape buffer (greenbelt) along the abutting side of no less than twenty five (25) feet.

SECTION 10.04 SCHEDULE OF INDUSTRIAL (I) DISTRICT REGULATIONS

No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, shall hereafter occur unless the following requirements are met and maintained in connection with such building, structure, use, or enlargement.

Industrial District Schedule

[Refer to Chapter 13 for additional requirements for Special Uses]

FRONT YARD	100 feet
	The first 35 feet of the Front Yard area, except for necessary entrance drives, shall be landscaped.
SIDE YARD	Side abutting Residential Districts or uses - 75 feet
	Side abutting other Districts - 50 feet
	Street side of a corner lot - 50 feet
REAR YARD	Abutting Residential Districts or uses - 100 feet
	Abutting other Districts - 50 feet
LOT COVERAGE	50%
BUILDING HEIGHT	40 feet
MINIMUM LOT AREA	1 Acre
MINIMUM LOT WIDTH	150 feet

SECTIONS 10.05 TO 10.99 RESERVED FOR FUTURE USE

CHAPTER 11
R-MH MANUFACTURED HOME PARK DISTRICT

SECTION 11.00 INTENT

The Manufactured Home Park District is intended to provide regulations for manufactured home residential developments to provide for additional variety in housing opportunities and choices.

SECTION 11.01 PERMITTED USES

Land and/or buildings in the R-MH District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 12.

- A. Manufactured homes located in a state-licensed manufactured home park.
- B. Manufactured home parks in accordance with the requirements of Section 11.03.
- C. Family day care homes.
- D. State licensed residential family care facilities; provided that such facility is not located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- E. Accessory buildings, structures, and uses.

SECTION 11.02 SPECIAL LAND USES

Land and/or buildings in the R-MH District may be used for the following purposes following review by Planning Commission and approval by the Township Board as a Special Land Use as regulated by Chapter 13:

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B. State licensed residential group home care facilities.

SECTION 11.03 LICENSED MANUFACTURED HOME PARKS

- A. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended, provided further that said developments meet the standards and conditions and all other provisions as herein established.
- B. The parking of more than one (1) manufactured home on a single parcel of land or on two or more adjoining parcels of land under common ownership shall be illegal in Ensley Township, irrespective of the requirements of any other ordinance of Ensley Township, unless such parcel or parcels of land shall have been approved as a licensed manufactured home park under the provisions of this Chapter.
- C. No manufactured home shall be occupied within the park area until such time as a "Manufactured Home Occupancy Permit" shall be issued by the Building Inspector. Said permit shall be for a one (1) year duration. Such permit shall be issued by the Building Inspector on payment by the owner of the manufactured home park of a fee which shall be established from time to time by the Township Board for each manufactured home park lot.
- D. The Manufactured Home Park Occupancy Permit shall be issued by the Building Inspector only after inspection of the premises, and after making a finding that the conditions as set forth below have been

fulfilled and complied with by the developer. A Permit may be issued if weather conditions or other temporary obstructions makes complete compliance impossible. In such case, the Zoning Administrator may require the submission of a performance bond covering the cost of the necessary improvements, provided that such improvements are completed within six (6) months from the date of the request for the Permit.

- E. All applications for manufactured home parks must be approved by the Township Board, upon the recommendation of the Planning Commission, in accordance with the provisions of this Section.
- F. The Planning Commission and Township Board shall consider the following standards when considering an application for a manufactured home park:
 - 1. Whether the proposal is in accordance with the Master Plan.
 - 2. Whether the proposal meets all the design standards of this Ordinance, other applicable local codes, regulations, and ordinances, and applicable state and federal requirements.
 - 3. Whether the density of the proposed development could adversely affect adjacent properties and land uses.
 - 4. Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate or inadequate sanitation and/or drainage facilities.
 - 5. Whether the proposed development produces excessive demands on available fire and police protection or other community services.
 - 6. Whether the traffic characteristics of the proposed development may create a hazard or place an excessive burden on adjacent public roads or pedestrian facilities.

G. **Manufactured Home Park Requirements**

All manufactured home parks shall be designed and developed in accordance with the following requirements:

- 1. Minimum site size for a manufactured home park shall be ten (10) acres.
- 2. A minimum of fifty (50) manufactured home sites shall be provided in the manufactured home park.
- 3. Each manufactured home park site shall have direct access to a primary, all season, road as defined by the Newaygo County Road Commission.
- 4. No access to the site shall be located closer than two-hundred (200) feet from the centerline of the intersection of any arterial street.

- 5. Minimum street widths within the manufactured home park shall be in accordance with the following schedule:

Parking	Direction	Minimum Street Width
No on-street parking	one way	14 feet
	two way	20 feet
Parallel parking on one side of street	one way	20 feet
	two way	30 feet
Parallel parking on both sides of street	one way	26 feet
	two way	36 feet

6. All streets within the manufactured home park shall be of bituminous aggregate or similar surface, meeting the Private Road construction specifications of this Ordinance. Lighting shall be provided by proper posts or overhead lamps to provide adequate lighting for all streets within the manufactured home park and at entries to the park site.
7. Maximum height for any permanent building shall not exceed one (1) story or twenty-five (25) feet, whichever is greater.
8. Each manufactured home lot, exclusive of streets shall have a minimum size of six-thousand five hundred (6,500) square feet and a minimum width of fifty (50) feet. No more than one (1) manufactured home shall be parked on any one lot, and no manufactured home shall be occupied by more than one family.
9. The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in conjunction therewith, including, but not limited to, storage sheds, cabanas, and porches shall be twenty (20) feet from the inside of the sidewalk; and the minimum spacing from any rear lot line shall be ten (10) feet, and from the side lot line on the entry side ten (10) feet, and from the side lot line on the non-entry side, five (5) feet.
10. The nearest building of the manufactured home park shall be set back a minimum of one-hundred (100) feet from the right-of-way of any adjacent public street. This setback shall be properly landscaped with grass and maintained by the owner and/or operator of the manufactured home park.
11. Each lot shall front on sidewalks at least five (5) feet in width, located directly next to and parallel to the street.
12. Each lot shall provide a minimum of two (2) off-street, paved parking spaces.
13. The front, rear, and side yards of every lot shall be landscaped with grass and properly maintained thereafter. At least one (1) shade tree shall be provided for every two (2) lots. Trees shall be located to provide shade for manufactured home park sites.
14. The manufactured home park shall provide a minimum of a fifty (50) foot buffer strip separating the manufactured home park from adjacent property. This strip shall be landscaped with trees or shrubbery planted in such a manner as to provide a screen at least five (5) feet in height. No part of this strip shall be used for any structure, right-of-way, drive, or parking space. The strip shall be maintained by the owner and/or operator of the manufactured home park.

H. Utility Standards

The following utility standards shall apply to all manufactured home parks:

1. All utilities shall be underground.
2. All lots shall be provided with an approved method of providing water and sanitary sewer service, and all manufactured homes shall be connected thereto. Said approval to be granted by the Newaygo County Health Department, Michigan Department of Natural Resources, the Ensley Township Board, or any other required agency, as appropriate. All expense of installation and connection shall be borne by the owner or operator of the manufactured home park in accordance with procedures established by the Township Board.
3. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots. On-site storm water detention or retention may be required where deemed necessary by the Township Engineer. All storm drainage and surface drainage facilities shall be approved by the Newaygo County Drain Commission.

I. Manufactured Home Standards

1. All manufactured homes within the manufactured home park shall be set up in accordance with the State of Michigan Mobile Home Commission rules and regulations applicable to manufactured home pad design and set up.
2. All manufactured homes shall have a minimum width of fourteen (14) feet across any horizontal surface, exclusive of carports or overhangs.

J. Recreation and Shelter Facilities

1. The manufactured home park shall contain one or more recreation and common playground areas intended primarily for the use of the residents of the manufactured home park residents. A minimum of two-hundred and fifty (250) square feet for every manufactured home park lot shall be provided. Buffer strip areas shall not be counted toward this requirement.

K. Inspection and Permits

1. The Building Inspector or such other person designated by the Township Board shall inspect the manufactured home park at least once each year. The fee for such inspection shall be determined by the Township Board.
2. In the event that the Building Inspector or such other designated person find that the condition of the manufactured home park is such that it does not comply with the safeguards and conditions as set out in this resolution, the Building Inspector or such other designated person shall serve written notice upon the owner or operator of such manufactured home park of such defects. The notice shall include a demand that such defects or deficiencies be corrected within thirty (30) days of receipt of the notice.

In the event that the owner or operator of the manufactured home park does not correct the deficiencies within the thirty (30) day period, either the owner or operator of the manufactured home park or the Building Inspector may request that the Township Board set a date for a public hearing on the defects or deficiencies. The hearing shall be held by the Township Board, provided that the notice is given to the owner and operator of the manufactured home park, and that such notice is posted in three (3) prominent places within the manufactured home park at least thirty (30) days prior to the hearing.

At the date of the hearing, the Township Board may amend or modify the terms of the original notice, or if the modifications thereof shall not be corrected within the thirty (30) days allowed for corrections to be made, or any extension thereof, the Township, in order to preserve the health and welfare of the residents of the Township and the value of the properties of the residents within the manufactured home park, and to prevent the manufactured home park from becoming a public

nuisance, may enter upon the manufactured home park and correct the defects and/or deficiencies, or may revoke the approval for the manufactured home park and order it closed.

L. Manufactured Home Sales

1. No person desiring to rent a dwelling unit site shall be required, as a condition of such rental, to purchase a manufactured home from the owner or operator of the manufactured home park as long as the manufactured home intended to be located on such site conforms in size, style, shape, price, or other such requirements as may be required by any reasonable manufactured home park rules and regulations.
2. Nothing contained in this Ordinance shall be deemed as prohibiting the sale of a manufactured home located on a manufactured home lot by the individual owner or an agent of the owner, or those home occupants as permitted in this Ordinance, provided that a manufactured home sales lot shall not be permitted in conjunction with any manufactured home park.

M. All persons, including but not limited to Township officials or police officers, whose entry upon the manufactured home park property is necessary, proper or advisable in the execution of their governmental duties, or to the execution of work authorized by a governmental body, or for the preservation of the peace, shall have the right to enter upon and inspect the manufactured home park at all reasonable times.

N. The riparian access requirements of Section 3.26 are fully applicable and each individual mobile home will be considered a dwelling for purposes of those regulations.

CHAPTER 11A

EC-ENSLEY CENTER DISTRICT

SECTION 11A.00 DESCRIPTION AND PURPOSE

This District is intended to provide for a variety of uses within a unique geographic area known as Ensley Center, located at the intersection of Cypress Avenue, a county primary road, and 120th Street, also a county primary road. The area is identified in the 2009 Ensley Township Master Plan as a location recommended for Rural Commercial uses. The Master Plan states that commercial areas are intended to permit small scale, service related uses such as convenience stores, professional services, and personal services.

Ensley Center is the location of the Ensley Township Hall and offices, a fire station, existing and former commercial uses, and residential uses. The physical form of these uses is that of a village-type pattern with small lots and structures close to the public road right-of-way. The purpose of the Ensley Center District is to retain and promote the existing pattern of development, to permit expansion and establishment of a variety of uses in a safe and aesthetically pleasing manner, and to serve as a “Township Center” for Ensley Township residents.

SECTION 11A.01 APPLICABILITY

The Ensley Center zoning district is intended for those parcels in the Ensley Center area that lie in an area 500 feet from the intersection of Cypress Avenue and 120th Avenue, and which have frontage either on Cypress Avenue or 120th Avenue (or both), and as described in the Ensley Township Master Plan.

SECTION 11A.02 PERMITTED USES

Only the following uses shall be permitted within the EC Ensley Center District:

- A. Personal service establishments which perform services on the premises within a completely enclosed building, including beauty and barber shops; fitness centers; travel agencies; tanning and manicure salons; tailors; shoe repair; and dry-cleaning service outlets but excluding establishments that perform cleaning operations on the premises.
- B. Dance, art, music, and similar professional studios that may offer lessons or items for sale.
- C. Executive, administrative, and professional offices.

- D. Retail shops for items such as antiques, books, jewelry, art, crafts, gifts, apparel, collectibles, florist items, yard and garden supplies, hardware, and similar items.
- E. Outdoor display of items for sale where such items are not within the required front yard, do not encroach upon any pedestrian walkway, and are not displayed within any off-street parking area. The outdoor display of items must be displayed in a neat and organized manner as determined by the Zoning Administrator.
- F. Sit down and carry out restaurants, delicatessens, ice cream shops, and coffee houses, including those uses with drive-through facilities subject to the requirements of Section 13.06 K., except the minimum lot size shall be as required by Chapter 11A. Modification of requirements for parking and access from that required by Section 13.06 K. are permitted upon recommendation of the Planning Commission and approval of the Township Board. Carryout service and outdoor dining are permitted. Outdoor dining is permitted where such dining does not encroach upon a public or private road right-of-way. Outdoor dining may be separated from the right-of-way only with movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of thirty-six (36) inches including plant material. Outdoor dining shall not encroach upon any pedestrian walkway or any off-street parking area.
- G. Bakeries and confectionaries.
- H. Meat and fish markets.
- I. Municipal offices, facilities, parking facilities, libraries, and public safety facilities.
- J. Single family residential uses, subject to the requirements of Section 3.25.
- K. Residential uses located above commercial or office uses subject to the following conditions:
 - 1. Residential uses shall be completely separated from the non-residential uses with a separate means of entrance and internal or external staircase.
 - 2. Parking for residential uses shall be clearly marked and delineated as reserved for the residential uses only, and shall be within 300 feet of the building containing the residential use.

- 3. Second story residential uses shall comply with all local and State of Michigan requirements and all applicable accessibility requirements of the Americans with Disabilities Act.
- L. Home occupations subject to the regulations of Section 3.14.
- M. Temporary outdoor art and craft exhibitions and sales, and temporary markets, festivals, and events subject to applicable Township regulations. Except for Township or government sponsored events, such uses or activities shall not occur on a given lot or parcel for more than 30 days during any calendar year.
- N. Catering establishments.
- O. Multiple uses of buildings provided each use is a use permitted in the EC District.
- P. Sporting goods stores subject to all applicable local, county, state, and federal regulations.
- Q. Antennas and towers 35 feet in height or less.
- R. Lawful accessory buildings, structure, and uses.
- S. Automotive Sales.
- T. Automotive Repair Shop when repairs are done inside of building. Shall be subject to Sec.3.08 of Ensley Township Zoning Ordinance.

SECTION 11A.03 SPECIAL LAND USES

Land and/or buildings in the EC-Ensley Center District may be used for the following purposes following a review by the Planning Commission and approval by the Township Board as a Special Land Use according to the requirements of Chapter 13.

- A. Open air businesses as defined by Section 2.15 of the Ensley Township Zoning Ordinance except the minimum lot size shall be as required by this Chapter 11A.

Display of materials or equipment for sale shall be as required by Section 13.06 N, except that materials or equipment for sale may extend into the required yards upon recommendation of the Planning Commission and approval by the Township Board. In no case shall materials or equipment for sale extend into the public or private road right-of-way.

- B. Bed and breakfast establishments.
- C. Public and private parks.
- D. Public or private clubs, lodges, banquet halls, or similar places of assembly.
- E. Churches.
- F. Essential public service equipment, buildings, and structures.
- G. Antennas and towers exceeding a height of 35 feet.
- H. Wind energy systems not exceeding a height of 65 feet.

SECTION 11A.04 SITE DEVELOPMENT REQUIREMENTS

- A. Site Plan Review. All permitted uses and special land uses allowed in the EC-Ensley Center District shall be subject to a site plan review in accordance with Chapter 12 of this Ordinance.
- B. Parking and Loading. Off-street parking and loading shall be provided only in accordance with the requirements of Chapter 14 of this Ordinance, and the following:
 - 1. Off-street loading spaces in the EC-Ensley Center District shall be located in the rear yard, and may, upon recommendation of the Planning Commission and approval of the Township Board, be located in the front or side yard where location of the loading spaces in the rear yard is impractical. Area of the loading spaces shall be subject to the requirements of Section 14.03 B.
 - 2. Parking for multiple uses in one structure shall be provided as required for each use within the structure.
 - 3. Modification of requirements for parking and loading from that required by Chapter 14 or Chapter 11A of this Ordinance are permitted upon recommendation of the Planning Commission and approval of the Township Board. The Planning Commission and Township Board may take into consideration that a portion of the required parking spaces can be reasonably provided by municipal parking spaces located within 300 feet of the proposed use.

- C. Signs. Signs shall be provided in accordance with the requirements of Section 14.11 A, C-commercial District-Permitted Signs, except that the following regulations shall also apply:
1. Ground signs shall not exceed 25 square feet and shall be set back five (5) feet from the road right-of-way. Ground signs shall maintain a 10-foot setback from any side property line.
 2. Wall signs shall not exceed 10 percent of the wall to which the sign is affixed, or 32 square feet in area, whichever is less. Where several tenants occupy one structure, a wall sign shall be permitted for each tenant but the combined total area of the signs shall not exceed 10 percent of the wall area or 32 square feet, whichever is less, and the permitted size each sign shall be divided proportionally based upon the proportion of the total wall area occupied by each tenant.
 3. Signs shall reflect the desired character of the EC-Ensley Center District and ground signs shall be landscaped with low-level plantings and landscape materials.
 4. Freestanding signs are not permitted.
 5. Signs for home occupations shall be subject to the requirements of Section 14.11 A, schedule for Permitted Signs in the A-R, R-L, R-S, R-A, and R-MH Districts.
- D. Outdoor Furnaces. Outdoor furnaces or wood boilers shall not be installed or operated within the EC-Ensley Center District.
- E. Outdoor Storage. The outdoor storage of goods or materials shall be prohibited in the front yard. Goods or materials stored in a side or rear yard shall not be stored in the required setback area and shall be screened from view from the street and from abutting properties.
- F. Trash Receptacles. All trash and refuse containers and storage areas shall be situated in the side or rear yard and shall be effectively screened by either a six-foot privacy fence maintained in good condition, or other method of screening if recommended by the Planning Commission and approved by the Township Board. Containers and refuse areas shall not be placed in the required minimum setback areas.

- G. Fences. Fences shall be subject to the requirements of Section 3.12 of the Ensley Center Zoning Ordinance, except that barbed wire and electric fences are not permitted in the EC Ensley Center District.
- H. Landscaping. Landscaping shall comply with the requirements of Section 12.05 4 and the following:
1. Landscaping shall be shown on the site plan and shall include the type, size, location, and number of plantings proposed, any existing vegetation, and existing vegetation that will be retained on the site.
 2. The front yard shall be landscaped in a manner that enhances the character of the site and that reflects the desired character of the EC Ensley Center District.
 3. Outdoor mechanical equipment shall be screened from view from all public roads.
 4. Parking areas exceeding 25 spaces shall provide interior landscaping, dispersed evenly throughout the parking lot in order to break up large expanses of pavement and assist with vehicular and pedestrian flow.
 5. Parking areas shall be screened on any side that abuts a residential use or zoning district. Screening shall consist of plantings that are a minimum height of not less than three feet.
- I. Lighting. Building, wall, and pole exterior lighting fixtures shall be directed downward in order to reduce glare onto adjacent properties and streets. Any fixtures or structures used in relation to lighting shall be compatible with the desired character of the EC Ensley Center District. For pole lighting in parking areas, light fixtures shall not exceed a height of 20 feet.
- J. Residential Structures used for Commercial Use. Residential structures may be used for commercial purposes. A residential structure may be used for both a residential use and a commercial use subject to the requirements of Section 11A.02 K.
- K. Accessory Buildings and Structures. Accessory buildings and structures shall be subject to the requirements of Section 3.11 A, B, and D of the Ensley Township Zoning Ordinance, and the following:

1. The Planning Commission may recommend and the Township Board may approve a side and rear setback of less than 10 feet if the modification of the required 10 feet is necessary due to conditions particular to the site, and if the modification will result in substantially satisfying the purpose of the EC-Ensley Center District as stated in Section 11A.00. However, in no case shall the side or rear setbacks for accessory buildings and structures be less than four feet.
- L. Clear Vision Areas. All uses and structures in the EC Ensley Center District shall comply with the requirements of Section 3.07 Clear Vision Corners.

SECTION 11A.05 HEIGHT, AREA, AND YARD REQUIREMENTS

- A. Lawful Existing Structures. No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, shall hereafter occur within the EC zoning district unless all of the dimensional requirements of this Chapter are met and maintained in connection with such building, structure, use, or enlargement. However, structures lawfully existing as of January 1, 2011 shall be deemed conforming in regard to height, required yards, lot area, lot width, and lot coverage. Existing structures that violate setback requirements shall be permitted to be enlarged or altered so long as the existing structure's setbacks are not decreased (*i.e.*, do not encroach further into the setback area). In no case shall an existing structure be enlarged or expanded such that the structure extends into the public or private road right-of-way. If existing structures are enlarged or expanded, the total area of all principal buildings, accessory buildings, and structures on a lot shall not exceed a coverage of 30% of the lot area of that lot. If the total area of all principal buildings, accessory buildings, and structures on a lot already equals or exceeds 30% of the lot area of that lot as of January 1, 2011, existing structures shall not be enlarged or expanded.
- B. Building and Structure Height. No building or structure shall exceed a maximum of 35 feet in height, except as otherwise provided in this Ordinance.
- C. Front Yard. No front yard shall be less than 15 feet nor greater than 25 feet.
- D. Side Yard. No side yard shall be less than four (4) feet, and a total of ten (10) feet shall be required between principal buildings on adjacent lots, unless additional distance is required to allow fire protection, minimal

accumulation of debris, adequate pedestrian circulation, or storm water management.

- E. Rear Yard. No rear yard shall be less than 25 feet. In the case of a corner lot, the zoning administrator shall determine which of two lot lines is the rear lot line for the purposes of determining the rear yard. The remaining lot line shall be a side lot line.
- F. Minimum Lot Area. No minimum lot area is required, provided the lot is served by both an adequate water supply and a septic system as approved by the Newaygo County Health Department.
- G. Minimum Lot Width. Minimum lot width shall be 100 feet as measured at the road right-of-way.
- H. Lot Coverage. The total area of all principal buildings, accessory buildings, and structures shall not exceed 30% of the lot area.

Except as expressly amended above to add a new Chapter 11A, the balance of the Ensley Township Zoning Ordinance, as amended, shall remain unchanged and in full force and effect.

Article 1. A new and additional zoning district is hereby added to the table contained in Section 4.00 (entitled "Districts") of the Ensley Township Zoning Ordinance, as amended, to read in its entirety as follows:

E-C	Ensley Center	Chapter 11A
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Except as expressly amended above to add the new E-C Ensley Center district information to the table in Section 4.00, that table and Section 4.00 otherwise remain unchanged and in full force and effect.

**SECTION 11.04 TO 11.99 RESERVED
FOR FUTURE USE**

CHAPTER 12 SITE PLAN REVIEW

SECTION 12.00 PURPOSE

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Planning Commission and Township Board in order that the applicant may accomplish planned objectives in the utilization of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development may be completed with minimum adverse effect on the use of adjacent streets and highways, and on existing and future uses and environment in the immediate area and vicinity.

SECTION 12.01 SITE PLANS TO BE REVIEWED

- A. The Zoning Administrator shall not issue a Zoning Compliance Permit for any principal use until a Final Site Plan has been reviewed and approved by the Township Board under the following circumstances:
 - 1. Permitted Uses in Residential Districts, except farms, single family dwellings (unless part of a site condominium project), state licensed residential family care facilities, family day care homes, home occupations, and accessory buildings and uses.
 - 2. Permitted Uses in the “C” and “I” Districts.
 - 3. Special Land Uses and Planned Unit Developments in any District.
 - 4. Residential developments, including site condominiums and subdivisions, containing four (4) or more lots, units or parcels.
 - 5. Any material expansion, alteration or changes in or to any of the above mentioned uses. The Zoning Administrator shall determine whether an expansion, alteration or change in or to any of the above mentioned uses is “material” for purposes of this subsection.
 - 6. As otherwise might be required in this Ordinance.
- B. All plans not reviewed by the Township Board shall be approved by the Zoning Administrator, who shall ensure that the site plan is in conformance with the Zoning Ordinance.

SECTION 12.02 APPLICATION PROCEDURES

- A. An application for Site Plan Review shall be submitted at least thirty (30) days prior to the next Planning Commission meeting through the Zoning Administrator who will review the application and plans for completeness, then transmit it to the Planning Commission.
- B. An application for either a Preliminary or Final Site Plan Review shall consist of the following:
 - 1. Seven (7) copies of the Preliminary or Final Site Plan.
 - 2. A completed application form, as provided by the Township.
 - 3. Payment of a fee, in accordance with a fee schedule, as determined by the Township Board from time to time.
 - 4. A legal description, including permanent parcel number, of the entire property which is the subject of the Site Plan Review.
 - 5. Other materials as required in this Chapter.

SECTION 12.03 REVIEW PROCEDURES

A. Public Information Meeting

1. Upon receipt of a valid application for a Final Site Plan Review, the Planning Commission shall hold a public information meeting for the purpose of receiving comments relative to the Site Plan Review application.
2. Notice of the public information meeting for the Final Site Plan Review shall be given in accordance with the following requirements:
 - a. A written notice of the public information meeting shall be sent by mail or personal delivery to the owners of property for which approval is being considered and to all persons to whom real property is assessed within three-hundred (300) feet of the boundary of the property in question.
 - b. Such notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered.
 - c. The notice shall describe the nature of the site plan review request, indicate the property which is the subject of the site plan review request, state when and where the site plan review request will be considered, and indicate where and when written comments will be received concerning the request.

B. Preliminary Site Plan Review

1. If desired by the applicant, a Preliminary Site Plan may be submitted for review by the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
2. Preliminary Site Plans shall include the following, unless deemed unnecessary by the Zoning Administrator.
 - a. Small scale sketch of properties, streets and use of land within one half (½) mile of the area.
 - b. A Site Plan at a scale of not more than one (1) inch equals one hundred (100) feet (1"=100') showing any existing or proposed arrangement of:
 - (1) Existing adjacent streets and proposed streets
 - (2) Lots
 - (3) Parking lots and access points
 - (4) Proposed buffer strips or screening
 - (5) Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
 - (6) Location of any signs not attached to the building
 - (7) Existing and proposed buildings.
 - (8) General topographical features including contour intervals no greater than ten (10) feet.
 - (9) All buildings and driveways within one hundred (100) feet of all property lines.
 - c. A narrative describing:
 - (1) The overall objectives of the proposed development.

- (2) Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
 - (3) Dwelling unit densities by type, if applicable.
 - (4) Proposed method of providing sewer and water service, as well as other public and private utilities.
 - (5) Proposed method of providing storm drainage.
3. The Planning Commission shall review the Preliminary Site Plan and make such recommendations to the applicant that will cause the Plan to be in conformance with the review standards required by this Chapter.

SECTION 12.04 FINAL SITE PLAN REVIEW

- A. If desired by the applicant, a Final Site Plan may be submitted for review without first receiving approval of a preliminary site plan. Final site plans shall include the following information, unless deemed unnecessary by the Zoning Administrator:
 1. Legal description of the property, including permanent parcel number.
 2. Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
 3. A narrative describing the items indicated in Section 12.03, B, 2, c.
 4. Seven (7) copies of a site plan at a scale not to exceed one (1) inch equals one hundred (100) feet (1" = 100'). The following items shall be shown on the plan:
 - a. Date of preparation/revision.
 - b. Name and address of the preparer.
 - c. The topography of the site at a minimum of five (5) foot intervals and its relationship to adjoining land.
 - d. Existing man-made features.
 - e. Dimensions of setbacks, locations, heights and size of buildings and structures.
 - f. Street rights-of-ways, indicating proposed access routes, internal circulations, and relationship to existing rights-of-ways.
 - g. Proposed grading.
 - h. Location and type of drainage, sanitary sewers, storm sewers, and other utilities.
 - i. Location and type of fences, landscaping, buffer strips, and screening.
 - j. Location and type of signs and on-site lighting.
 - k. Proposed parking areas and drives. Parking areas shall be designated by lines showing individual spaces and shall conform with the provisions of Chapter 13.
 - l. Easements, if any.
 - m. Dimensions and number of proposed lots.
 - n. All buildings and driveways within one hundred (100) feet of all property lines.
- B. The Planning Commission, prior to granting approval of a Final Site Plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.
- C. The Planning Commission shall recommend approval, denial, or approval with conditions of the Final Site Plan to the Township Board. The Township Board shall review the Final Site Plan and approve, approve with conditions, or deny the Final Site Plan based on the purposes, objectives and requirements of this Ordinance, and specifically, the standards of Section 12.05.

SECTION 12.05 SITE PLAN REVIEW STANDARDS

- A. The Planning Commission and Township Board, as applicable, shall review the Preliminary and Final Site Plan and approve, approve with conditions, or deny the application based on the purposes, objectives and

requirements of this Ordinance, and specifically, the following considerations when applicable:

1. The uses proposed will not harm the public health, safety, or welfare. All elements of the site plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
2. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points.
3. The arrangement of public or common ways for vehicular and pedestrian circulation and their connection to existing or planned streets in the area shall be planned to operate in the safest and most efficient means possible.
4. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
5. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or nearby bodies of water. Provisions shall be made to accommodate stormwater, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.
6. All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Township Fire Department and the Newaygo County Sheriff's Department.
7. All loading and unloading areas and outside storage areas, including refuse storage stations, shall be screened from the view of the street and/or adjacent properties.
8. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
9. Off-street parking and loading areas shall be provided where required, with particular attention to noise, glare and odor effects of each use in the plan on adjoining properties and properties in the proposed development.
10. The general purposes and spirit of this Ordinance and the Master Plan of the Township.
11. The site plan is harmonious with and not injurious to existing and projected uses in the immediate area.
12. The site plan is adequate to provide for the health, safety and general welfare of the persons and property on this site and in the neighboring community.

SECTION 12.06 APPROVED SITE PLANS

- A. Upon approval of the Preliminary and Final Site Plans, the Chairman of the Planning Commission shall sign two (2) copies thereof. One (1) signed copy shall be made a part of the Planning Commission's files and one (1) copy shall be returned to the applicant.

Upon approval of the Final Site Plan by the Township Board, the Township Supervisor, or the Township Board member acting as Chairman for the meeting, shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Township's files; one (1) shall be forwarded to the Building Inspector for issuance of a building permit; and one (1) copy shall be returned to the applicant.

- B. Each development shall be under construction within one (1) year after the date of approval of the Final Site Plan by the Township Board, except as noted below.
1. The Planning Commission may grant one (1) six (6) month extension provided the applicant applies for such extension prior to the date of the expiration of the Final Site Plan.
 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, but is then ready to proceed.
 3. Should neither of the aforementioned provisions be fulfilled or a six (6) month extension has expired without construction underway, the Final Site Plan approval shall be null and void.
- C. Amendments to an approved Final Site Plan may occur only under the following circumstances:
1. The holder of a valid Final Site Plan shall notify the Zoning Administrator of any proposed amendment to such approved site plan.
 2. Minor changes may be approved by the Zoning Administrator upon certification in writing to the Township Board that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Township Board. In considering such a determination, the Zoning Administrator shall consider the following to be a minor change:
 - a. Reduction of the size of any building and/or sign.
 - b. Movement of buildings and/or signs by no more than ten (10) feet.
 - c. Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping on a one-to-one or greater basis.
 - d. Changes of building materials to a higher quality, as determined by the Zoning Administrator.
 - e. Changes in floor plans which do not alter the character of the use.
 - f. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - g. Changes required or requested by the Township for safety reasons shall be considered a minor change.
 3. Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, resubmission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

SECTIONS 12.07 TO 12.99 RESERVED FOR FUTURE USE

CHAPTER 13 SPECIAL LAND USES

SECTION 13.00 PURPOSE

Special Land Uses are those uses of land which are not essentially incompatible with uses permitted in a District, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, overburdening public services and facilities, and conflicts with adjacent uses of land. The purpose of this Chapter is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish Special Land Uses. The criteria for decision and requirements provided for under the provisions of the Chapter shall be in addition to those required elsewhere in this Ordinance which are applicable to the Special Land Use under consideration.

SECTION 13.01 APPLICATION AND REVIEW PROCEDURES

- A. An application for permission to establish a Special Land Use shall be submitted in accordance with the following procedures:
1. Applications for a Special Land Use shall be submitted at least thirty (30) days prior to the next Planning Commission meeting through the Township Clerk who will review the application for completeness, then transmit it to the Planning Commission.
 2. A valid application for a Special Land Use approval shall consist of the following:
 - a. Seven (7) copies of a Site Plan meeting the requirements of Section 12 of this Ordinance.
 - b. A completed application form, as provided by the Township.
 - c. Payment of a fee, in accordance with a fee schedule, as determined by the Township Board from time to time.
 - d. A legal description, including permanent parcel number, of the entire property which is the subject of the Special Land Use.
 - e. A statement with regard to compliance with the criteria required for approval in Section 13.02, and other criteria imposed by this Ordinance affecting the Special Land Use under consideration.
 - f. Other materials as required by the Planning Commission.
- B. Public Hearing
1. Upon receipt of a valid application for a Special Land Use, the Planning Commission shall hold a public hearing for the purpose of receiving comments relative to the Special Land Use application.
 2. Notice of the public hearing for the Special Land Use shall be given in accordance with the requirements of the Zoning Act.
 3. The Planning Commission and Township Board shall review the application for a Special Land Use and make a determination on the application in accordance with:
 - a. The site plan and other materials submitted in relation to the Special Land Use application;
 - b. The standards for approval stated in Section 13.02;
 - c. Other standards contained in this Ordinance which relate to the Special Land Use under consideration.
 4. The Planning Commission shall recommend the Special Land Use application to the Township Board with its approval, approval with conditions, or a denial.
 5. If denied, the Planning Commission and Township Board, in its minutes, shall state the reasons for such denial and provide the applicant with a copy.

SECTION 13.02 BASIS OF DETERMINATION

- A. Prior to approval of a Special Land Use application, the Planning Commission and Township Board shall insure that the standards specified in this Section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the Special Land Use under consideration.
1. The Planning Commission and Township Board shall review the particular circumstances of the application under consideration in terms of the following standards, and shall approve a Special Land Use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.
 - a. The Special Land Use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - b. The Special Land Use shall not change the essential character of the surrounding area.
 - c. The Special Land Use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the creation of hazardous or potentially hazardous situations or the excessive production of traffic, noise, smoke, fumes or glare.
 - d. The Special Land Use shall not place demands on public services and facilities in excess of current capacity.
 - e. The special land use shall be harmonious and consistent with the intent of the Township Zoning Ordinance and Master Plan.
 - f. The special land use will not establish a precedent for developments or uses which could adversely affect the long-term goals of the Township zoning Ordinance or Master Plan.
 - g. The special land use shall be designed to preserve environmental features, such as lakes, rivers, streams, flood plains, agricultural areas and natural areas.
- B. The Township Board may impose conditions with the approval of a Special Land Use which are necessary to insure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Special Land Use application and shall be enforced by the Zoning Administrator.

SECTION 13.03 APPROVAL TERM AND EXPIRATION

- A. A Special Land Use approval shall be valid for one (1) year from the date of approval, unless approval is revoked as provided in Section 13.04, or the Special Land Use has been initiated, or construction necessary for such use has been initiated and is proceeding meaningfully toward completion, in which case the approval shall remain valid indefinitely, unless the use is abandoned or discontinued for six (6) consecutive months in which case the approval shall be deemed expired as of the end of such period of six (6) consecutive months and thereupon shall no longer be valid.
- B. If, by the end of this one (1) year period, the Special Land Use has not been initiated or construction necessary for such use has not been initiated or, if construction has been initiated but is not proceeding meaningfully toward completion, then the Special Land Use shall be deemed expired and no longer valid.
- C. A Special Land Use approval, including conditions imposed, is attached to and shall run with the land for which the approval is granted, and shall be binding upon subsequent owners and all occupants of the subject land.
- D. Re-application for approval of an expired Special Land Use approval shall be considered in the same manner as the original application.

SECTION 13.04 REVOCATION OF SPECIAL LAND USE APPROVAL

- A. If the applicant fails to comply with any of the applicable requirements in this Chapter, any conditions placed on the approval by the Township Board, or any other applicable provisions of this Ordinance the Township Board shall so notify the applicant of the applicable infractions. If these infractions are not

- corrected within the stated time, the Township Board may revoke the Special Land Use approval and all rights associated with said use shall cease.
- B. Prior to revoking a Special Land Use approval, the Planning Commission shall conduct a public hearing and give notice of such hearing in accordance with Section 13.01 B.
 - C. Following the public hearing, the Planning Commission shall make a recommendation to the Township Board regarding the Special Land Use. Such recommendation may be that the Special Land Use be modified, shall be revoked, or that it shall remain in effect with all of the original conditions and requirements. If such recommendation is that the Special Land Use be modified, the Planning Commission shall include in its recommendation the conditions, requirements, or other matters as to which modification is recommended. The Township Board shall thereafter determine whether the Special Land Use shall be modified, revoked or remain in effect without change. If the conditions and requirements of the Special Land Use are not modified, and if the applicant is not in compliance therewith, the applicant shall be given a reasonable period of time, as determined by the Township Board, in which to correct any violations so as to cause the Special Land Use to be fully in compliance with all of the established conditions and requirements.
 - D. Notwithstanding the provisions of this Section, the Township may enforce the correction of any violation of this Ordinance as provided for by said Ordinance.

SECTION 13.05 EXISTING SPECIAL EXCEPTIONS

Uses of land and/or development projects granted special exception status by the Township prior to the adoption of this Zoning Ordinance may continue this status, provided the rules, regulations, requirements, and conditions of the special exception are met.

SECTION 13.06 SPECIFIC SPECIAL LAND USE STANDARDS

The following Special Land Uses shall be subject to the requirements of the District in which it is located, in addition to all the applicable conditions, standards, and regulations as are cited in this Ordinance. In no instance shall the standards for special land uses be less than those of permitted uses.

- A. Country clubs, golf courses, riding stables, and publicly-owned athletic grounds and parks, including related uses, such as snack bars, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.
- B. Roadside stands with more than two-hundred (200) square feet of sales area for sale of produce grown on the premises.
- C. Commercial greenhouses and nurseries, when operated primarily as wholesaling operations and limited retail sales.
- D. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- E. Public or private campgrounds.
- F. Multiple family dwellings.
- G. State licensed residential group care facilities.
- H. Group and commercial day care homes and facilities.
- I. Funeral homes and mortuary establishments.
- J. Hotels and motels.
- K. Theaters, or similar places of public assembly, as determined by the Zoning Administrator.
- L. Restaurants with drive-through facilities.
- M. Vehicle service stations, excluding body shops.
- N. Vehicle wash establishments, either self-serve or automatic.
- O. Open air businesses.
- P. Veterinary hospitals, animal clinics, and commercial kennels.
- Q. Bowling alleys.
- R. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- S. Body shops.
- T. Lumber and planing mills.
- U. Metal plating, buffing, and polishing.
- V. Commercial storage warehouses.
- W. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- X. Junk yards/salvage yards.
- Y. Adult uses.

Z. Home Based Businesses. (Amended 6/22/2016)

A. **Country clubs, golf courses, riding stables, and publicly-owned athletic grounds and parks, including related uses, such as snack bars, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.**

1. The use shall be located on property with direct access to a public street.
2. Any outdoor activity areas shall be set back a minimum of fifty (50) feet from any Residential District or use.
3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.
4. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
5. Buildings housing animals, storage equipment, or other similar buildings shall be located at least fifty (50) feet from any lot line.
6. Minimum lot size shall be no less than ten (10) acres, provided, however, the Planning Commission may permit a lot size reduction, not to exceed five (5) acres, upon demonstration by the applicant that the proposed use will not result in a negative impact to adjacent properties.

B. **Roadside stands with more than two-hundred (200) square feet of sales area for sale of produce grown on the premises.**

1. A five (5) foot fence or wall shall be constructed along the rear and sides of the area used for such use, capable of keeping trash, paper, and other debris from blowing off the premises.
2. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or driveway.
3. No lighting shall be provided for any such use.
4. Any building or display area shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

C. **Commercial greenhouses and nurseries, when operated primarily as wholesaling operations and limited retail sales.**

1. The lot area used for parking, display, or storage shall be provided with a permanent, durable and dustless surface, and shall be graded and drained so as to dispose of all surface water.
2. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or driveway.
3. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any Residential District or use property line.
4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
5. Minimum lot size shall be no less than five (5) acres.

D. **Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.**

The Township Board shall not approve such use until the following information is provided and the Township Board finds that the proposed use will not unduly impact surrounding properties and the Township in general, in accordance with the following.

1. The size of the property from which such topsoil, sand, gravel or other such materials are to be removed.
2. The amount of topsoil, sand, gravel or other such materials which is to be removed.
3. The purpose of such removal.
4. The effect of such removal on adjoining property; all removal activities shall be set back a minimum of one-hundred (100) feet from any adjoining Residential District or use.
5. The effect of such removal in causing a safety hazard, creating erosion problems, or altering the groundwater table.
6. The potential for such removal to cause the creation of sand blows, stagnant water pools, or swampy areas.
7. The effect of such removal on the environment and the natural topography, and the potential destruction of any natural resources.
8. Potential traffic congestion and problems because of trucks or other vehicles or means utilized to haul and transport the materials removed.
9. Any change of the natural contour of the land, both during mining operations and at the time of abandonment, shall be maintained in a safe condition.
10. No business or industrial buildings or structures of a permanent nature shall be erected, except where such building is a Permitted Use within the District in which the extraction activity is located.
11. No storage or truck parking shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any other adjacent property.
12. All of the operation shall be screened with an evergreen screen planting on any side adjacent to residentially occupied property.
13. As the natural resources are being removed, the property shall be restored by the placement of topsoil where feasible; and all excavations shall be sloped to a gradient with not more than a thirty (30) degree slope and the contour blended as nearly as possible with the natural surroundings.
14. All truck operations shall be directed away from residential streets and utilize county primary roads wherever possible.
15. The Township Board may require such bond as deemed necessary to insure that requirements are fulfilled, and may revoke permission to operate at any time specified conditions are not maintained.
16. Topsoil or sand may be removed from a lot for the purpose of erecting or constructing a building or structure on the lot, provided a permit is first obtained from the Zoning Administrator. If any removal from a parcel shall exceed five hundred (500) cubic yards of material, then the applicant shall comply with the provisions of this Section. In addition, topsoil or sand may be moved from one part of a lot to another part if such action will not cause, or be likely to cause, sand blows, stagnant water pools, bogs or possible future injury to adjoining properties.

17. The applicant shall secure all necessary permits from Township, County and State authorities.
18. Minimum lot area shall be no less than five (5) acres.

E. Public or private campgrounds.

1. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
2. The applicant shall secure all necessary permits from Township, County and State authorities.
3. Minimum lot area shall be no less than five (5) acres.
4. Retail commercial uses may be permitted within the campground provided that the following requirements are met:
 - a. All commercial uses allowed shall occupy no more than five percent (5%) of the lot for building and parking areas.
 - b. No merchandise for display, sale or lease shall be located in any manner outside the main building.
 - c. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.

F. Multiple family dwellings.

1. All dwelling units in the building shall have a minimum of seven-hundred fifty (750) square feet per unit.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
4. Buildings shall not be constructed closer than a distance equal to one and one-half (1½) times the height of the taller building.
5. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.
6. The maximum density shall not exceed four (4) units per acre.
7. Minimum lot area shall be no less than two (2) acres.

G. State licensed residential group care facilities.

1. Shall not be located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, provided, however, this provision shall not apply to facilities caring for six (6) or less minors or adults.

H. Group and commercial day care homes and facilities.

1. A drop off/pick up area shall be provided for motorists off the public street, which permits vehicles to exit the property without backing into the street.
2. Fencing no less than four (4) feet nor more than six (6) feet in height shall be provided around all

outdoor areas accessible to children.

3. There shall be a contiguous open space of a minimum of one-thousand two hundred (1,200) square feet provided on the subject parcel. Said open space shall not be located within a required front yard setback area. This requirement may be waived by the Township Board if public open space is available within five hundred (500) feet of the subject parcel, measured from the nearest lot line of the use to the nearest lot line of the public open space.
4. Minimum lot area shall be no less than one (1) acre.

I. Funeral homes and mortuary establishments.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.
2. Minimum lot area shall be no less than one (1) acre and minimum lot width shall be no less than one-hundred and fifty (150) feet.
3. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
4. No waiting lines of vehicles shall extend off-site or onto any public street.
5. Access driveways shall be located no less than twenty-five (25) feet from the nearest part of the intersection of any street or any other driveway.

J. Hotels and motels.

1. Minimum lot area shall be no less than four (4) acres and minimum lot width shall be no less than two-hundred (200) feet.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

K. Theaters, or similar places of public assembly, as determined by the Zoning Administrator.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.
2. Main buildings shall be set back a minimum of one-hundred (100) feet from any residential property line.
3. For uses exceeding a seating capacity of two-hundred and fifty (250) persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
4. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
5. Minimum lot area shall be no less than ten (10) acres.

L. Restaurants with drive-through facilities.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
4. Access driveways shall be located no less than twenty-five (25) feet from the nearest part of the intersection of any street or any other driveway.
5. Minimum lot area shall be no less than one (1) acre.

M. Vehicle service stations, excluding body shops.

1. Minimum lot area shall be no less than one (1) acre and minimum lot width shall be no less than two-hundred and fifty (250) feet.
2. Pump islands shall be a minimum of fifteen (15) feet from any public right-of-way or lot line.
3. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
5. If retail sales of convenience goods are conducted on the premises, parking for such uses shall be computed and provided separately for that use.
6. Canopy roofs shall be permitted to encroach into any required yard, provided that a minimum setback of five (5) feet is maintained, and further provided that the fascia of such canopy is a minimum of ten (10) feet above the average grade.
7. Access driveways shall be located no less than twenty-five (25) feet from the nearest part of the intersection of any street or any other driveway.
8. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition. The wall or fence, or portion thereof, may be waived by the Township Board provided the applicant satisfactorily demonstrates that proposed landscaping will be of a character sufficient to accomplish the buffering effects of the wall or fence.

N. Vehicle wash establishments, either self-serve or automatic.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of fifteen (15) stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two (2) stacking spaces at the entrance and one (1) space at the exit.
2. Vacuuming activities, if outdoors, shall be at least one-hundred (100) feet from any Residential

District or use property line. Wash bays for self-service establishments shall be located at least fifty (50) feet from any Residential District or use property line.

3. Should self-service wash bays be located with openings parallel to an adjacent street, they shall be screened by a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
4. Only one (1) access driveway shall be permitted on any single street. All access driveways shall be located no less than twenty-five (25) feet from the nearest part of the intersection of any street or driveway.
5. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence shall be continuously maintained in good condition.
6. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any Residential District or use property line.
7. Minimum lot area shall be no less than one (1) acre.

O. Open air businesses.

1. A five (5) foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.
2. The lot area used for parking, display, or storage shall be provided with a permanent, durable and dustless surface, and shall be graded and drained so as to dispose of all surface water.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or driveway.
4. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any Residential District or use property line.
5. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
6. Minimum lot area shall be no less than one (1) acre.

P. Veterinary hospitals, animal clinics, and commercial kennels.

1. Buildings, dog runs, and/or exercise areas, or any other area where animals are kept shall be set back one-hundred (100) feet from any property line.
2. All sleeping quarters and runs shall be adequately designed and constructed to protect the health and safety of animals throughout the year during periods of inclement weather.
3. Minimum lot area shall be no less than one (acre), provided, however, a minimum lot area of ten (10) acres shall be required whenever the operation involves a kennel, outdoor exercise area, or dog run.

Q. Bowling alleys.

1. The principal and accessory buildings and structures shall be located no closer than one-hundred (100) feet to any Residential District or use property line.
2. Minimum lot area shall be one (1) acre and minimum lot width shall be one-hundred and fifty

(150) feet.

3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or driveway.
4. Minimum lot area shall be no less than one (1) acre.

R. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

1. Any such buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
2. Any such building shall comply with the yard setback requirements of the District in which it is located.
3. Minimum lot area shall be no less than one (1) acre.

S. Body shops.

1. The principal and accessory buildings and structures shall not be located within one-hundred (100) feet of any Residential District or use property line.
2. Minimum lot area shall be no less than one (1) acre and minimum lot width shall be one-hundred and fifty (150) feet.
3. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Inoperative vehicles left on the site shall, within forty-eight (48) hours, be stored within an enclosed building, or in an area screened by an opaque fence not less than six (6) feet in height. Such fence shall be continuously maintained in good condition.
5. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
6. Access driveways shall be located no less than twenty-five (25) feet from the nearest part of the intersection of any street or driveway.
7. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

T. Lumber and planing mills and sawmills.

1. The principal and accessory buildings and structures shall not be located within two-hundred (200) feet of any Residential District or use property line.
2. Minimum lot area shall be no less than ten (10) acres with a minimum lot width of no less than three hundred thirty (330) feet.
3. Storage of timber, saw logs, saw dust, wood chips, partial and finished wood products, and other such materials shall not be stored within one hundred (100) feet of the front property line.
4. Adequate emergency vehicle access shall be maintained to all portions of the operation.

- 5. Landscaping and/or fencing shall be provided as required by the Planning Commission.

U. Metal plating, buffing, and polishing.

1. The principal and accessory buildings and structures shall not be located within two-hundred (200) feet of any Residential District or use property line.
2. In addition to the site plan, the applicant shall provide design detail on the method for the collection and disposal of liquid and solid waste by-products. The Township may require that engineering plans, sealed by a Professional Engineer registered in the State of Michigan, be provided pursuant to disposal methods which may pose a potential threat to the ground water.
3. The applicant shall secure all necessary permits from Township, County, and State authorities.
4. Minimum lot area shall be no less than five (5) acres.

V. Commercial storage warehouses.

1. Minimum lot area shall be no less than two (2) acres.
2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family detached dwelling in the R-S District.
3. Parking and circulation:
 - a. One parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the storage area. The parking requirement may be met with the parking lanes required for the storage area.
 - b. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
 - c. One (1) parking space shall also be required for every twenty (20) storage cubicles, up to a maximum of ten (10) spaces, to be located adjacent the rental office, for the use of customers.
 - d. The following parking lanes and access aisles shall be required. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.

Lane/Aisle	Aisle/Lane Width (ft)		# Lanes/Aisles Required	
	One-Way	Two-Way (each lane or aisle)	One-Way	Two-Way
Parking Lane	10	10	1	1
Access Aisle	15	12	1	2

- e. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.

W. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.

1. The principal and accessory buildings and structures shall not be located within two-hundred (200) feet of any Residential District or use property line.
2. Minimum lot area shall be no less than five (5) acres.

X. Junk yards/salvage yards.

1. Requests for a Special Land Use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall be provided with suitable access to a collector or arterial road to ensure safe, direct transport of salvage to and from the site.
3. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or use property line.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.
5. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
6. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
9. All portions of the storage area shall be accessible to emergency vehicles.
10. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
11. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
13. Minimum lot area shall be no less than ten (acres).
14. All fences shall be setback a minimum of fifty (50) feet from any Residential District or use property line.
15. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.

16. The Township Board may impose other conditions, such as greenbelts, landscaping, and other items, which have a reasonable relationship to the health, safety and general welfare of the Township. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

Y. Adult uses.

1. The lot or parcel on which the use is located shall not be closer than one-thousand (1,000) feet from any Residential District or use, school, church, or park, as measured from the nearest part of the each lot line.
2. The use is not located within a one thousand (1,000) foot radius of any other such use, as measured from the nearest part of the each lot line.
4. Minimum lot area shall be no less than one (1) acre with a minimum lot width of no less than two hundred fifty (200) feet.

SECTIONS 13.07 TO 13.99

RESERVED FOR FUTURE USE

CHAPTER 14
DISTRICT REGULATIONS - PARKING AND SIGNS

SECTION 14.00 PARKING - GENERAL REQUIREMENTS

- A. Unless otherwise provided for in this Ordinance, off-street parking shall not be located within the required front yard.
- B. Off-street parking for all non-residential Districts and uses shall be either on the same lot or within three-hundred (300) feet of the building or use it is intended to serve, measured from the nearest public entrance of the building to the nearest point of the off-street parking lot.
- C. The storage of merchandise or products, motor vehicles displayed for sale, or the repair of vehicles is prohibited in any off-street parking lot.
- D. Residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. Such parking spaces shall be constructed with an asphalt or concrete binder, gravel, or compacted earth so as to provide a durable and dustless service, and shall occupy no greater than thirty-three percent (33%) of the required front yard.
- E. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this Chapter.
- F. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.
- G. Two (2) or more buildings or uses may collectively provide the required off-street parking.
- H. The Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:
 - 1. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Ordinance for parking area design and other site development requirements.
 - 2. Alterations to the deferred parking area may be initiated by the owner or required by the Zoning Administrator, and shall require the approval of an amended site plan, submitted by the applicant accompanied by evidence documenting the justification for the alteration.
- I. Overnight parking of semi-truck tractors and trailers, and commercial vehicles exceeding one and one-half (1½) tons shall be prohibited in the R-S, R-L, R-A, and R-MH Districts.

SECTION 14.01 PARKING LOT DESIGN STANDARDS

A. Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

Parking Pattern	Two-Way Aisle Width	One-Way Aisle Width	Parking Space Width	Parking Space Length
Parallel Parking	18 Ft.	12 Ft.	9 Ft.	25 Ft.
30-75 degree angle	24 Ft.	12 Ft.	9 Ft.	21 Ft.
76-90 degree angle	26 Ft.	15 Ft.	9 Ft.	18 Ft.

- B. Minor adjustments of the dimensions prescribed in this Section may be authorized by the Zoning Administrator if consistent with generally recognized design standards for off-street parking facilities.
- C. All parking lots shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless service.
- D. All parking lots shall be constructed so as to permit proper drainage and prevent puddling or storage of water within the lot. Drainage shall be in accordance with the requirements of Ensley Township and the Newaygo County Drain Commission.
- E. All parking lots shall be provided with adequate lighting. Parking lot lighting shall be shielded so as to prevent light from spilling onto adjacent Residential Districts or uses.

SECTION 14.02 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

- A. Required off-street parking spaces are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Planning Commission or Zoning Administrator considers similar in type.
- B. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.

**SCHEDULE OF OFF STREET PARKING REQUIREMENTS
Ensley Township**

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Residential	
Single family dwellings	Two (2) for each dwelling unit
Two family dwellings	Two (2) for each dwelling unit
Multiple family dwellings	Two (2) for each dwelling unit, plus one (1) additional space for each two (2) units
Institutional	
Group day care homes and group foster care homes	One (1) space for each four (4) clients, plus one (1) space for each employee

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Churches, theaters, assembly areas, auditoriums, gymnasiums	One (1) space for each four (4) seats or each eight (8) feet of pew length or one (1) space for and each three (3) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Schools, elementary and middle	Two (2) spaces for each three (3) employees, plus amount required for auditorium or gymnasium seating
Schools, secondary, trade, industrial, and institutions of higher learning	One (1) space for each eight (8) students, plus one and one-half (1½) spaces for each classroom, plus amount required for auditorium or gymnasium seating

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Commercial	
Vehicle wash establishments (self service or automatic)	One (1) space for each five (5) stalls
Beauty/barber shop	Three (3) spaces for each chair
Bowling alleys	Four (4) spaces for each bowling lane plus required spaces for each accessory use
Assembly halls without fixed seats	One (1) space for each three (3) persons allowed within the maximum occupancy load established by any applicable codes or ordinances
Restaurants - without drive-through facilities	One (1) space for each one hundred (100) square feet of usable floor area or one (1) space for each two (2) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	One (1) space for each one hundred (100) square feet of usable floor area or one (1) space for each one and one-half (1½) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Vehicle service stations	One (1) space for each service stall, plus one (1) space for each pump island, plus one (1) space for each of the maximum number of employees on the premises at any one time
Personal service establishments not otherwise specified	One (1) space for each fifty (50) square feet of usable floor area
Furniture, appliance and household goods retail sales	One (1) space for each one thousand (1000) square feet of usable floor area
Funeral homes and mortuary establishments	One (1) space for each fifty (50) square feet of usable floor area
Open air businesses	One (1) space for each two hundred (200) square feet of indoor usable floor area plus one (1) space for each one thousand (1000) square feet of outdoor display area
Retail stores not otherwise specified	One (1) space for each two hundred (200) square feet of usable floor area

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Commercial	
Hotels and motels	One (1) space for each guest room, plus required spaces for any accessory uses
Video rental stores	One (1) space for each one hundred (100) square feet of usable floor area plus one (1) space for the maximum number of employees on the premises at any one time

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Offices	
Banks, credit unions, savings and loan associations and other similar uses	One (1) space for each one hundred and fifty (150) square feet of usable floor area plus three (3) spaces for each non-drive through automatic teller machine
Offices not otherwise specified	One (1) space for each three hundred (300) square feet of usable floor area
Medical and dental offices and clinics	One (1) space for each seventy five (75) square feet of waiting room area plus one (1) space for each examining room, dental chair, or similar use area

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Industrial	
Manufacturing, processing, and research establishments and Industrial uses not otherwise specified	One (1) space for each one thousand (1000) square feet of gross floor area plus those spaces required for offices located on the premises
Warehouses and wholesale establishments	One (1) space for each two thousand (2000) square feet of gross floor area plus those spaces required for offices located on the premises

SECTION 14.03 OFF-STREET LOADING REQUIREMENTS

- A. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the lot adequate space for standing, loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
- B. In the “C” District all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from off-street parking requirements.
- C. Loading spaces for non-residential uses in Residential Districts shall be located in the rear yard in the ratio of at least five (5) square feet per front foot of building and shall be computed separately from off-street parking requirements.

D. Industrial (I) District

1. In the "I" District at least one (1) loading space shall be provided. All loading spaces shall be at least ten feet by fifty feet (10 x 50), or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.
2. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.

E. All dedicated loading spaces shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless service.

SECTION 14.04 SIGNS - INTENT

A. The sign regulations of this Chapter are intended to protect and further the health, safety, and welfare of the residents of Ensley Township; to maintain and improve the appearance of Ensley Township; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs.

SECTION 14.05 SIGNS - DEFINITIONS

- A. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.
- B. Awning sign: A sign affixed flat against the surface of an awning.
- C. Balloon sign: A sign composed of a non-porous bag of material filled with air.
- D. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
- E. Billboard: A sign which advertises an establishment, product, service, or activity not available on the lot on which the sign is located.
- F. Construction Sign: A sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
- G. Directional Sign: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- H. Freestanding Sign: A sign supported on poles not attached to a building or wall.
- I. Government Sign: A temporary or permanent sign erected by Ensley Township, Newaygo County, or the state or federal government.
- J. Ground Sign: A sign resting directly on the ground or supported by short poles not attached to a building or wall.
- K. Marquee: A permanent structure constructed of rigid materials that projects from the exterior wall of a building.
- L. Marquee Sign: A sign affixed flat against the surface of a marquee.
- M. Mural: A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
- N. Placard: A sign not exceeding two (2) square feet which provides notices of a public nature, such as "No Trespassing" or "No Hunting" signs.

- O. Political Sign: A temporary sign used in connection with an official Ensley Township, school district, county, state, or federal election or referendum.
- P. Portable sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
- Q. Projecting Sign: A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than thirty-six (36) inches from the face of the building or wall.
- R. Reader Board: A portion of a sign on which copy is changed manually.
- S. Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- T. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- U. Roof Sign: A sign erected above the roof line of a building.
- V. Sign: A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
- W. Special Event Sign: Temporary and portable signs containing public messages concerning special events sponsored by governmental agencies or non-profit organizations.
- X. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of the wall to which it is attached.
- Y. Window Sign: A sign installed inside a window and intended to be viewed from the outside.

SECTION 14.06 GENERAL SIGN PROVISIONS

- A. No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, provided the following signs shall not require a building permit:
 - 1. Directional signs of six (6) square feet in size or less.
 - 2. Government signs.
 - 3. Placards.
 - 4. Temporary sale signs of four (4) square feet in size or less.
 - 5. Window signs.
 - 6. Political signs.
- B. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.
- C. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- D. Signs, may be internally illuminated or if externally illuminated, except for home occupation signs which shall not be illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.

- E. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this Chapter.
- F. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- G. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- H. No commercial vehicles, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
- I. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
- J. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
- K. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of commercial advertisement) hung overhead to draw attention to a business or its merchandise on display shall be prohibited.
- L. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
- M. No sign attached to a building shall be erected above the roof line of that building.
- N. All signs shall pertain only to the business or activity conducted on the premises, with the exception of political signs and special event signs.

SECTION 14.07 EXEMPTED SIGNS

- A. The following signs shall be exempt from the provisions of the Ensley Township Zoning Ordinance, except as provided for by the provisions of Section 14.06:
 - 1. Government signs.
 - 2. Historical markers.
 - 3. Window signs.
 - 4. Memorial signs or tablets.
 - 5. Murals.
 - 6. Signs not visible from any street.
 - 7. Signs for essential services.
 - 8. Placards of less than two (2) square feet.
 - 9. Signs with address, owner, or occupant name, of up to two (2) square feet in area attached to a mailbox, light fixture or exterior wall.
 - 10. Flags or insignia of any nation, state, Ensley Township, community organization, or educational institution.

SECTION 14.08 NONCONFORMING SIGNS, ILLEGAL SIGNS, AND SIGNS ACCESSORY TO NONCONFORMING USES

- A. Every permanent sign which does not conform to the height, size, area, or location requirements of this Chapter as of the date of the adoption of this Ordinance, is hereby deemed to be nonconforming.
- B. Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
- C. For the purposes of this Chapter, a nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of nonconforming use.
- D. Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50) percent of the value of the sign on the date of loss.
- E. Any sign which for a period of one (1) year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
- F. A sign accessory to a nonconforming use may be erected in the Township in accordance with the sign regulations for the District in which the property is located.

SECTION 14.09 SIGNS - UNITS OF MEASUREMENT

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- B. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size, the area of the two (2) back-to-back faces shall be counted as one face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.
- D. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

SECTION 14.10 SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS

- A. The following sign regulations are applicable to all Districts:
 - 1. Billboards are not permitted in the agricultural or residential districts.
 - 2. All ground, wall and freestanding signs may include reader boards.
 - 3. Any sign, including awnings to which signs are affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.

4. Political signs shall be removed within ten (10) days after the official election or referendum to which such sign pertains.
5. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
6. Construction signs are permitted within any District, subject to the following restrictions:
 - a. Construction signs shall be no larger than thirty-two (32) square feet and not exceed eight (8) feet in height.
 - b. Construction signs not be erected until a building permit has been issued for the project which is the subject of the proposed sign and construction activity has begun.
 - c. Construction signs shall be removed immediately upon the issuance of any Occupancy Permit for the building or structure which is the subject of the construction sign.
7. Special event signs, including banner signs, are permitted in any District, subject to the following restrictions:
 - a. No more than five (5) such signs shall be displayed for each special event. Such signs may be located either on or off the lot on which the special event is held.
 - b. The display of such signs shall be limited to the twenty-one (21) days immediately preceding the special event which is being advertised.
 - c. Such signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height of five (5) feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet.
 - d. Such signs shall be removed within forty-eight (48) hours of the conclusion of the special event which is being advertised.
8. Directional signs are permitted subject to the following restrictions:
 - a. A directional sign may contain a logo of an on-premise establishment, but no advertising copy.
 - b. No such sign shall exceed six (6) square feet in area or four (4) feet in height.
 - c. Directional signs shall be limited to traffic control functions only.
9. Garage and estate sale signs are permitted subject to the following restrictions:
 - a. One (1) sign per premises is permitted, located on the premises on which such sale is being conducted, and set back a minimum of fifteen (15) feet from any side or rear property line.
 - b. Such sign shall not exceed six (6) square feet in area.
 - c. Such sign shall be erected no more than ten (10) days prior to the day(s) of the sale and shall be removed within one (1) day after the completion of the sale.
10. Portable, temporary, balloon, and other such signs are permitted for a period not to exceed sixty (60) days per year. Portable, temporary, balloon, and other such signs shall meet applicable building codes. No such sign shall be placed or erected in such a manner that it constitutes a safety hazard.
11. Roadside agriculture stand signs are permitted subject to the following restrictions:
 - a. One (1) sign per premises is permitted, located on the premises on which such sale is being conducted, and set back a minimum of fifteen (15) feet from any side or rear property line.
 - b. Such sign shall not exceed thirty-two (32) square feet in area.

SECTION 14.11 DISTRICT SIGN REGULATIONS

A. Signs in each District shall be subject to the following regulations:

A-R, R-L, R-S, R-A AND R-MH DISTRICTS - PERMITTED SIGNS	
Ground signs for residential subdivisions, manufactured home parks, multiple family complexes, schools, or other non-residential uses allowed in the District	
Number	One (1) per major entrance
Size	No greater than thirty-two (32) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
Wall signs for home occupations	
Number	One (1) per lot or parcel
Size	No greater than six (6) square feet
Location	On wall of house facing street, unilluminated
Wall signs for non-residential uses	
Number	One (1) per street frontage
Size	No greater than five percent (5%) of the wall area to which the sign is affixed. A larger wall sign may be permitted by Special Use Permit.
Location	On wall of building facing street
Political signs	
Number	One (1) per issue or candidate
Size	No greater than eight (8) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than six (6) square feet for unoccupied properties or lots; sixteen (16) square feet for vacant lots or parcels over one (1) acre in size.
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet

C - COMMERCIAL DISTRICT - PERMITTED SIGNS	
Ground signs	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
Size	No greater than fifty (50) square feet for each sign allowed

C - COMMERCIAL DISTRICT - PERMITTED SIGNS	
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Wall signs	
Number	One (1) per street frontage
Size	No greater than ten percent (10%) of the wall area to which the sign is affixed. A larger sign may be permitted by Special Use Permit.
Location	On wall of building facing street
Political signs	
Number	One (1) per issue or candidate
Size	No greater than thirty-two (32) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than sixteen (16) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Freestanding signs	
Number	One (1) per lot or parcel, except for parcels with two (2) or more public street frontages equaling or exceeding three hundred (300) feet shall be permitted two (2) signs, which may be either freestanding or ground signs, or a combination, each of which must meet the other regulations applicable to the sign.
Size	One and one-half (1½) square feet for each one (1) foot of lot frontage up to a maximum of fifty (50) square feet, for each sign allowed
Location	Minimum of fifteen (15) feet from any property line
Height	No higher than twenty (20) feet

ENSLEY CENTER DISTRICT - PERMITTED SIGNS	
Ground signs	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel.
Size	No greater than twenty-five (25) square feet for each sign allowed
Location	Minimum of ten (10) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line

ENSLEY CENTER DISTRICT - PERMITTED SIGNS	
Height	No higher than six (6) feet
Wall signs	
Number	One (1) per street frontage
Size	Wall signs shall not exceed ten percent (10%) of the wall area to which the sign is affixed, or 32 square feet in area, whichever is less. Where several tenants occupy one structure, a wall sign shall be permitted for each tenant but the combined total area of the signs shall not exceed 10 percent of the wall area or 32 square feet, whichever is less, and the permitted size each sign shall be divided proportionally based upon the proportion of the total wall occupied by each tenant.
Location	On wall of building facing street
Political signs	
Number	One (1) per issue or candidate
Size	No greater than thirty-two (32) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than sixteen (16) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Freestanding signs	
Number	One (1) per lot or parcel, except for parcels with two (2) or more public street frontages equaling or exceeding three hundred (300) feet shall be permitted two (2) signs, which may be either freestanding or ground signs, or a combination, each of which must meet the other regulations applicable to the sign.
Size	One and one-half (1½) square feet for each one (1) foot of lot frontage up to a maximum of fifty (50) square feet, for each sign allowed
Location	Minimum of fifteen (15) feet from any property line
Height	No higher than twenty (20) feet

I - INDUSTRIAL DISTRICT - PERMITTED SIGNS	
Ground signs	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line

I - INDUSTRIAL DISTRICT - PERMITTED SIGNS	
Height	No higher than six (6) feet
Wall signs	
Number	One (1) per street frontage
Size	No greater than five percent (5%) of the wall area to which the sign is affixed. A larger sign may be permitted by Special Use Permit.
Location	On wall of building facing street
Political signs	
Number	One (1) per issue or candidate
Size	No greater than sixteen (16) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than sixteen (16) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet

SECTIONS 14.12 TO 14.99 RESERVED FOR FUTURE USE

CHAPTER 15 PLANNED UNIT DEVELOPMENTS

SECTION 15.00 DESCRIPTION AND PURPOSE

- A. The purpose of a Planned Unit Development (PUD) is to permit greater flexibility in development than is generally possible under standard District regulations. It is further intended to promote the preservation of significant natural features, the efficient use of land, a harmonious variety of housing choices, and the integration of open space, and necessary commercial and community facilities.
- B. These PUD provisions are not intended as a device for ignoring the other requirements of this Ordinance or to circumvent rezoning or other pertinent procedures. These provisions are intended to result in land development substantially consistent with the underlying zoning, except as otherwise noted.

SECTION 15.01 QUALIFYING CONDITIONS

- A. The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all affected properties.
- B. The property which is the subject of a PUD application must be a minimum of ten (10) contiguous acres in total area and may be located within any District.
- C. To be considered as a PUD the proposed development must fulfill at least one of the following conditions:
 - 1. The PUD contains two or more separate and distinct uses, for example, single family and multiple family dwellings;
 - 2. The PUD site exhibits significant natural features which will be preserved as a result of the PUD plan.
 - 3. The PUD is designed to preserve in perpetuity at least fifty percent (50%) of the total area of the site in active agriculture or open space.

SECTION 15.02 REVIEW PROCEDURES

PUD approval requires a four (4) step process:

- Step 1. Review and approval of a preliminary plan by the Planning Commission with recommendation to the Township Board.
- Step 2. Review and approval of a preliminary plan by the Township Board based on recommendation of the Planning Commission.
- Step 3. Final plan approval by the Planning Commission with recommendation to the Township Board.
- Step 4. Final plan approval by the Township Board based on recommendation of the Planning Commission.

The process is described as follows:

- A. Preliminary Plan Approval
 - 1. To be considered as a PUD the applicant shall be required to first receive approval of a preliminary plan in accordance with the requirements of this Chapter.
 - 2. Applications for preliminary plan approval for PUDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.

3. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
 - a. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file such application.
 - b. Written documentation that the proposal meets the standards of Section 15.04 [Standards for PUD Approval].
 - c. If a phased development is proposed, identification of the areas included in each phase. For residential uses identify the approximate density and type of proposed housing units within each phase and for the total PUD.
 - d. A completed application form, supplied by the Zoning Administrator, and an application fee.
 - e. Seven (7) copies of a preliminary site plan meeting the site plan requirements of Section 12.
4. The Planning Commission shall conduct a public hearing prior to considering the proposed preliminary plan. Notices of the public hearing will be provided in accordance with the requirements of the Zoning Act.
5. The Planning Commission shall recommend to the Township Board either to deny, approve, or approve with conditions, the preliminary plan. The Township Board shall review the preliminary plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, the preliminary plan.
6. Changes in the preliminary plan shall be submitted to the Planning Commission pursuant to the above procedures applicable to the original application.

B. Final Site Plan Approval

1. After receiving approval of a preliminary plan from the Township Board the applicant shall within one (1) year submit a final site plan to the Planning Commission.
2. The final site plan may be for either the entire project or for one or more phases.
3. Applications for final site plan approval for PUDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.
4. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
 - a. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file such application.
 - b. Written documentation that the proposal meets the standards of Section 15.04.
 - c. If a phased development is proposed, identification of the areas included in each phase. For residential uses identify the number, type, and density of proposed housing units within each phase.
 - d. A completed application form, supplied by the Zoning Administrator, and an application fee.
 - e. Seven (7) copies of a final site plan for the phase for which approval is requested, meeting the requirements of Section 12. Failure to submit a final site plan for approval within the one (1) year period shall void the previous preliminary plan approval and a new application shall be required to be submitted and approved in accordance with these provisions.

6. The Planning Commission shall conduct a public hearing prior to considering the final site plan. Notices of the public hearing will be provided in accordance with the requirements of the Zoning Act.
7. The Planning Commission shall recommend to the Township Board either to deny, approve, or approve with conditions, the final site plan. The Township Board shall review the final plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, the final site plan.
8. Changes in the final site plan shall be submitted to the Planning Commission pursuant to the above procedures applicable to the original application.

SECTION 15.03 PERMITTED USES

- A. Uses within a PUD shall be limited to the Permitted or Special Uses provided for within the District underlying the proposed PUD location. Provided, however, in the R-S District the following combination of residential types shall also be permitted.
 1. Single-family detached dwellings.
 2. Two-family dwellings, provided that such units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
 3. Multiple-family dwellings, provided that such units make up no more than thirty percent (30%) of the total number of residential dwelling units in the total PUD.

SECTION 15.04 SITE DEVELOPMENT REQUIREMENTS

- A. Residential Uses
 1. The maximum number of dwelling units permitted may exceed underlying zone district standards by an amount no greater than ten (10%) percent. If the PUD lies in more than one zone district the number of dwelling units shall be calculated on a proportionate basis.
 2. The total amount of land to be used for the calculation of the permitted density in a PUD shall be determined by using the net developable area, which shall be determined by taking the total site area and subtracting lands used or dedicated for public easements and public or private road right-of-ways.
 3. The minimum lot area requirements for any lot designated for residential use may be reduced by ten (10%) of the underlying zone district standard. Lot width and building setbacks shall comply with the requirements of the underlying zone district.
 4. Except as specified within this Chapter, residential uses shall comply with the dimensional standards of the underlying zone district.

- B. Non-Residential Uses
 1. All non-residential uses allowed in a residential PUD shall occupy no more than ten percent (10%) of the PUD project's developable area.
 2. All uses shall be integrated into the design of the project with similar architectural and site

development elements, including signs, landscaping, and related features.

3. Within residential PUDs, non-residential uses shall be permitted only if they will not materially alter the residential character of the neighborhood and/or the PUD.
4. All merchandise for display, sale or lease shall be entirely within an enclosed building(s).
5. Buildings designed for non-residential uses in a residential PUD shall be constructed according to the following requirements:
 - a. If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five percent (75%) of these units must be constructed prior to construction of any non-residential use.
 - b. If the PUD contains more than twenty (20) dwelling units, fifty percent (50%) of these units shall be constructed prior to the construction of any non-residential use.
6. Except as provided for within this Chapter, all non-residential uses shall comply with the dimensional standards of the underlying zone district.

C. Open Space

1. Not less than ten (10%) of the PUD shall be designated as common open space for the benefit of all PUD property owners. This open space shall be in addition to the space designated to yards and other open space areas customarily associated with individual housing units or other uses. Common open space shall meet the following considerations and requirements:
 - a. Open space may be established to separate use areas within the PUD.
 - b. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, such that all properties within the entire PUD may utilize the available open space.
 - c. Evidence shall be given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the Township of the future maintenance thereof.
 - d. Open space may be provided where significant natural features may be preserved and/or be used for passive or active recreation.
 - e. All land set aside as open space shall be deed restricted to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.
 - f. All common open space shall be in the joint ownership of the property owners within the PUD. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space and payment of property taxes.
 - g. The Planning Commission or Township Board may require an increase in common open space if it is determined that said increase is necessary for the enjoyment or safety of PUD property owners or for the welfare of Township residents as a whole, for the preservation of unique features or wildlife habitat, to ensure compatibility with adjoining properties, or to promote the intent of the PUD regulations.

D. Review Standards

The following review standards will be used by the Planning Commission and Township Board in their consideration of a PUD. Before such developments may be approved the Township Board shall find:

- a. That a site plan meeting the provisions of Section 12 has been provided and all fees paid.
- b. That the PUD does not substantially alter the character of the general neighborhood in

- c. which the development is proposed;
 - c. That the location of the buildings do not unduly impact single family or other uses legally existing in the vicinity of the proposed development;
 - c. That the PUD preserves, in perpetuity, unique site conditions, such as significant natural features, large open space areas, or active agricultural land.
 - d. That the PUD can accommodate adequate and safe disposal of sanitary sewer and can provide an adequate, assured source of water for domestic use. To this end the Planning Commission and/or Township Board may require specific evidence that groundwater sources will be protected and that other environmental concerns are met. Approval of the Newaygo County Health Department or other agencies, while required to develop the site, will not be the sole determining factor in this regard. The Planning Commission and/or Township Board may specify what additional evidence it deems to be acceptable to make this determination, including additional soil borings, soil reports, hydrological tests, and other such evidence which will be submitted by the applicant and reviewed by the township prior to approval of the PUD.
 - e. That the PUD has been designed to provide for the safe and efficient circulation of pedestrians and vehicular traffic, including emergency vehicles, school busses, and pertinent commercial traffic.
 - f. That the PUD has been designed to properly accommodate surface water drainage, snow storage, and other infrastructure needs.
 - g. That the PUD will not unduly burden the capabilities of the Township pursuant to the provision of emergency services.
- E. All electric and telephone transmission wires shall be placed underground.
- F. Parking is required in accordance with Section 14.
- G. Signs are permitted in accordance with the requirements of Section 14.

CHAPTER 15A – OPEN SPACE PRESERVATION-PUBLIC ACT NO. 177 OF 2001, AS AMENDED – MCLA 125.286 *et seq.*

Section 15A.00 – Applicability

The provisions of this Chapter are intended to carry out the provisions of Public Act No. 177 of 2001, as amended, being MCLA 125.286h *et seq.* (Act No. 177). In order for a landowner to exercise the open space preservation option of that statute, the land involved must be rezoned to a planned unit development (“PUD”) zoning designation pursuant to this Chapter and all of the requirements of this Chapter must be met. Additionally, the PUD provisions of Chapter 15 of this Ordinance shall also apply except to the extent that an express provision of this Chapter modifies the PUD process. Act No. 177 requires that townships having a population of 1,800 or more and which have a zoning ordinance must adopt provisions in their zoning ordinances known as “open space preservation” provisions, which permit lands satisfying certain criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of land specified in the zoning ordinance, but not more than 50%, that, as determined by the townships could otherwise be developed under existing ordinances, laws, and rules on the entire land area. The purpose of this Chapter is to adopt open space preservation provisions consistent with the requirements of Act No. 177.

Section 15A.01 – Definitions

For purposes of this Chapter, the following definitions shall apply:

- A. “Land zoned for residential development” shall mean any land located in the A-R Agricultural Residential and R-S Suburban Residential zoning districts pursuant to the Ordinance.
- B. “Act No. 177” shall mean Public Act No. 177 of 2001, as amended, being MCLA 125.286h *et seq.*

Section 15.02 – Qualifying Conditions

- A. Land may be developed pursuant to the provisions of this Chapter and Act No. 177 only if all of the following requirements and conditions are met:
 - 1. The land is located in the A-R Agricultural Residential and R-S Suburban Residential zoning districts pursuant to this Zoning Ordinance;
 - 2. The development of land pursuant to this Chapter shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering or open space option provided for by this Chapter would also depend on such extension; and;
 - 3. The clustering or open space option provided pursuant to this Chapter shall not have previously been exercised with respect to the same land.
- B. If all of the preceding conditions and requirements listed in this Section 15A.02 are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions and requirements of this Chapter.

Section 15A.03 – Permitted Uses

Only those residential land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this Chapter.

Section 15A.04 – Process

Only land located in the A-R Agricultural Residential and R-S Suburban Residential zoning districts is eligible for the open space preservation option provided for in this Chapter and pursuant to Act No. 177. Should the owner of a property within the A-R Agricultural Residential or R-S Suburban Residential zoning districts desire to take advantage of such option, the landowner must apply for a PUD rezoning approval pursuant to the procedural requirements of Chapter 15 of this Zoning Ordinance. Once the land is zoned for a PUD pursuant to this Chapter, it will be deemed a “Residential-Open Space Preservation PUD.” All of the normal minimum lot size, setback, road frontage, lot width, width-to-depth ratio, and other dimensional, frontage, and area requirements governing the development of land within the zoning district where the land is located shall apply except to the extent that such standards are expressly varied pursuant to this Chapter or where the Planning Commission and Township Board approved such a variation pursuant to the PUD approval process.

Section 15A.05 – Application and Review Procedure

- A. The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this Chapter shall be those stated in Chapters 12 and 15 of this Ordinance, governing site plans and planned unit developments, except as otherwise expressly provided in this Section 15A.05 and this Chapter.
- B. In addition to the application materials required by Chapters 12 and 15 of this Ordinance, an application for the development of land under the provisions of this Chapter shall also include the following:

1. The Existing Zoning Plan. The applicant shall prepare and submit to the Township a site plan for the purpose of demonstrating the number and location of dwelling units that could be developed on the land at issue under its existing zoning if the clustering or open space option provided for by this Chapter were not exercised. The Existing Zoning Plan may be conceptual in nature, but shall include at least the following information:
 - (A) Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the site development plan illustrating the proposed development using the clustering option permitted by this Chapter.
 - (B) Location of all streets and driveways, existing and proposed.
 - (C) Location of all lots, illustrating lot area, frontage, and the width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - (D) Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to; storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
 - (E) If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the Existing Zoning Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Newaygo County Health Department.
 - (F) The location of all portions of the land that is unbuildable for residential purposes due to the presence of wetlands, severe slopes, flood plains, or other features prohibiting development for residential purposes.
 - (G) If any portion of the land has frontage on a lake, river, or street, the Existing Zoning Plan shall show each such body of water, as well as the number and location of dwelling units that could be developed with frontage on or access to each such body of water under existing zoning if the open space or clustering option provided for by this Chapter were not exercised.
2. The Site Development Plan. The applicant shall also submit a site plan for the open space or clustering option permitted by this Chapter, which, in addition to the site plan requirements specified by Chapters 12 and 15 of this Ordinance, shall also include all of the following information:
 - (A) Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the Existing Zoning Plan.
 - (B) The site development plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.

- (C) The site development plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for cluster development, and the percentage of each, as compared to the total site acreage.
 - (D) The site development plan shall illustrate the location of all lots and proposed building envelopes and shall indicate the lot area, frontage, and width of each lot, and the proposed front, side and rear yard building setbacks. The number of lots on the site development plan shall not exceed the number of lots on the Existing Zoning Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described later in this Chapter.
 - (E) The site development plan shall also illustrate the location and type of all proposed structures or improvements that are not dwellings.
 - (F) If the proposed clustered development will include septic tanks and drain fields, the site development plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Newaygo County Health Department.
 - (G) If the development is to be served by public streets, proof that the Newaygo County Road Commission has approved the design, layout and construction of the streets.
 - (H) If any portion of the land has frontage on a lake, river, or street, the site development plan shall show the proposed location and number of dwelling units with proposed frontage on or access to a body of water.
 - (I) The location of any proposed private street(s).
 - (J) The site development plan shall demonstrate that each of the proposed residential lots and proposed building envelopes is “buildable” and fully suited for the construction and use of a single-family residential dwelling.
3. Developable Area. When reviewing an application submitted under the terms of this Chapter, the Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number and location of dwelling units that could be developed on the land under its existing zoning if the clustering or open space option provided by this Chapter were not exercised. If the Planning Commission determines that the number and/or location of dwellings shown on the Existing Zoning Plan exceeds the number of dwellings that could be permitted or developed on the land if it were developed under its existing zoning if the clustering or open space option provided by this Chapter were not exercised (or the locations are not accurate), the applicant shall submit a revised Existing Zoning Plan which accurately reflects the number and location of dwelling which could have been developed under existing zoning if the Act No. 177 option were not exercised pursuant to this Chapter. For purposes of determining the number and location of dwellings that would have been permitted or developed on the land under its existing zoning if the clustering or open space option were not exercised, the following shall be deemed land not developable and shall be excluded from the formula determining otherwise developable land area under existing ordinances:
- (A) Wetlands as defined by Michigan law.
 - (B) Land located under a lake, pond, river, or stream.

- (C) Land with slopes exceeding 20%.
 - (D) Land for which an on-site private septic system or private well could not be utilized under Newaygo County Health Department regulations.
 - (E) Land located within a flood plain or which is subject to periodic flooding.
4. The Restrictions Document. The applicant shall submit a copy of the proposed deed restrictions, restrictive covenants, conservation easement, plat dedication, or other legal document which the applicant proposes to utilize if the proposed open space or cluster development is approved pursuant to this Chapter and which would have the legal effect of preserving in perpetuity the open space required by this Chapter in an undeveloped state. Such document shall be reviewed and approved by the Township and the Township Attorney (as to form and content) prior to the recording. At a minimum, the document(s) shall provide for all the following:
- (A) Indicate the proposed permitted use(s) of the undeveloped open space.
 - (B) Require that the open space be maintained forever in an undeveloped condition, without buildings, structures, or other improvements, except such drainage improvements, utilities, riding trails, hiking trails, picnic areas, park or playground equipment, growing of crops, agricultural structures, or similar improvement which are approved by the Planning Commission.
 - (C) Require that the undeveloped open space be maintained by the parties who have an ownership interest in it.
 - (D) Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of trees and new plantings.

The approved restriction document shall be fully executed by all of the owner(s) of the land and shall be recorded with the Newaygo County Register of Deeds before any lots are sold and before any building permits are issued.

5. If the site development plan complies and all aspects of the proposed development satisfy all requirements of this Chapter, the Planning Commission and Township Board shall approve the site development plan and the planned unit development rezoning for the proposed development.

Section 15A.06 – Requirements for Open Space

- A. Required Open Space. At least 50%, but no more than 80%, of the land proposed for development under the provisions of this Chapter shall remain in a perpetually undeveloped state (i.e., “open space”) by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land as approved by the Township Board (upon recommendation by the Planning Commission) and the Township Attorney.
- B. Lands to be Set Aside as Open Space. It shall be the Township Board (upon recommendation from the Planning Commission) that determines which 50% or more of the land shall be set aside for open space, as well as which portion or portions of the land may be developed. At the discretion of the Township Board (upon recommendation from the Planning Commission), the land to be set aside as permanent open space need not be contiguous. The Township Board (upon recommendation from the Planning Commission)

shall also determine what percentage of the total land area (between 50% and 80%) shall be set aside as permanent open space.

C. The following areas shall not constitute open space and may not be utilized to satisfy the open space requirement:

1. Any areas located within or under any public street easement or right-of-way.
2. Property located under or within any private street or road easement.
3. The land located under or the area within any easement for overhead utility lines.
4. The area within a platted lot or site condominium unit.
5. Off-street parking areas.
6. Detention and retention ponds.
7. Community drain fields.
8. The lands or area located underneath a lake, pond, river, or stream.
9. The area within a wetland as defined by Michigan law.
10. Lands with sloped exceeding 20%
11. Areas subject to flooding or within a flood plain.

D. Standards for Open Space. The following standards shall apply to the open space required pursuant to this Chapter:

1. The open space shall not include a golf course.
2. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, an agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
3. The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
4. If the land contains a lake, stream, or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
5. A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help to preserve or enhance the existing views.
6. A portion of the open space shall be reasonably usable by the residents of the land for passive recreational uses such as hiking or picnicking.

7. Open space shall be located so as to be reasonably accessible to the residents of the development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
 8. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.
- E. Use of Open Space. All dwelling units, and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Township Board (upon recommendation by the Planning Commission), at its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.

**Section 15A.07 – Individual Lots, Streets, and Other Improvements;
Miscellaneous Provisions**

- A. Underlying Zoning District. The development of land under this Chapter shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except those setback, area, lot width to depth ratio, and yard size requirements that must be adjusted to allow the clustering option permitted under this Chapter where approved by the Township Board (upon recommendation from the Planning Commission).
- B. Uniform Lot Size. Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Township Board (upon recommendation from the Planning Commission).
- C. Building Envelopes. The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Township Board (upon recommendation of the Planning Commission). The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
- D. Required Street Frontage. Each lot shall have a minimum of at least 60 feet of frontage on a lawful street, measured at the street right-of-way line.
- E. Lot Width. Each lot shall have a minimum width equal to no less than ½ the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the Township Board (upon recommendation from the Planning Commission). Notwithstanding the provisions of this subsection, each lot which abuts or has frontage on a lake, river, stream or creek shall have frontage on such body of water equal to or greater than the minimum lot width requirement for the zoning district in which the land is located.
- F. Maximum Number of Lots. The clustered portion of the development shall contain no more than the maximum number of lots, as determined from the Existing Zoning Plan approved by the Planning Commission and Township Board, and as reduced to reflect the inclusion of nondwelling unit structures, if any, as described in subsection (H).
- G. Nondwelling Unit Structures. Lots containing nondwelling structures such as a clubhouse and its related amenities, shall be subject to all requirements of this Chapter applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed. However, the Township Board (upon recommendation by the

Planning Commission) may at its discretion, permit the enlargement of a lot containing a nondwelling structure so as to reasonably accommodate it.

- H. Reduction in Lots for Nondwelling Structures. If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:
1. The area of a lot or lots occupied by nondwelling structures, shall be calculated and then divided by the average area of a dwelling lot that could be situated in the clustered development if the nondwelling structures were not included in the clustered development, as determined from the approved Existing Zoning Plan. If this number is a fraction, it shall be rounded up to the nearest whole number.
 2. The number calculated under subsection (1) shall be subtracted from the number of dwelling lots that could be permitted in the clustered development in the absence of the nondwelling structures, as determined from the approved Existing Zoning Plan, in order to determine the maximum number of dwelling lots permitted to be included in the clustered portion of the development with the nondwelling structures included.
- I. Perimeter Lots. Notwithstanding any other provision of this Chapter, the Township Board (upon recommendation from the Planning Commission) may require that the clustered development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
- J. Sidewalks. The Township Board (upon recommendation from the Planning Commission) may require sidewalks.
- K. Grading. Grading within the clustered development shall comply with the following requirements:
1. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed by the Township Board on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required by the Township Board.
 2. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Township Board (upon recommendation from the Planning Commission). Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Township Board (upon recommendation from the Planning Commission).
 3. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land and so as to have only such minimal effect upon lakes, streams, wetlands, and the environmental characteristics of the land as may be reasonably feasible.
- L. Private Roads. Private roads within a clustered development, shall conform to the private road requirements (and approval process) of this Ordinance. The Township Board (upon recommendation of the Planning Commission) may, however, modify the requirements for private streets and in doing so, shall consider the following criteria:
1. The number and type of dwelling units served by the private street:

2. Traffic generation;
 3. Existing topography and vegetation;
 4. Security provisions;
 5. Inter-relationship with the public street network;
 6. Future installation of public utilities; and
 7. Likelihood of public dedication of the roadway.
- M. Other Laws. The development of land under this Chapter is subject to all other applicable Township ordinances, and state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.
- N. Access to or Frontage on Lakes and Streams.
1. An approved Residential – Open Space Preservation PUD or other approved development pursuant to Act No. 177 and this Chapter, shall comply fully with the lake access, frontage, and other requirements contained in this Ordinance with regards to lakes, rivers and streams if the property at issue has frontage on a lake, river or stream.
 2. No approved Residential – Open Space Preservation PUD or other development approved pursuant to Act No. 177 and this Chapter shall permit any more lots or dwellings to have access to or frontage upon a lake, river or stream than would be otherwise legally permissible under existing zoning.
- O. County Drain Commissioner Approval. Any matters involved with drainage, retention/detention ponds, water runoff, and similar matters associated with any proposed development pursuant to this Chapter shall require the approval of the Newaygo County Drain Commissioner and shall be subject to the applicable rules and regulations of the same.

Section 15A.08 – Amendments to an Approved Residential-Open Space PUD

- A. An approved site plan and any conditions imposed upon its approval pursuant to an approved Residential-Open Space Preservation PUD shall not be changed except upon the mutual consent of the Township Board (after recommendation by the Planning Commission) and the applicant, except as otherwise stated below with respect to minor changes.
- B. A minor change may be approved by the Planning Commission. The following items shall be considered minor changes:
 1. Reduction of the size of any building, building envelope, or sign.
 2. Movement of buildings or signs by no more than ten (10) feet.
 3. Plantings approved in the landscaping plan may be replaced by similar types of plantings.
 4. Changes requested by the Township for safety reasons.

5. Changes which will preserve natural features of the land without changing the basic site layout.

Section 15A.09 – Performance Guarantees

The Township Board, at its discretion, may require reasonable performance guarantees. Such guarantees shall be conditioned upon faithful compliance with all of the provisions and requirements of this Chapter and the approved site plan and PUD. Such performance guarantees shall be in the form of a performance bond, irrevocable letter of credit, or cash deposit in an amount and form deemed by the Township Board to be appropriate.

Section 15A.10 – Time Limitations for Development

Each development approved and permitted pursuant to this Chapter shall be under substantial construction within one (1) year after the date of approval of the site plan and PUD by the Planning Commission and Township Board. If this requirement is not met, the Planning Commission may, at its discretion, grant an extension not exceeding one (1) year, provided that the applicant submits reasonable evidence showing that unforeseen difficulties or special circumstances have occurred which caused excusable delay in the commencement of the cluster or open space development. If the approved development has not been commenced within the above-stated time period or any authorized extension thereof, any zoning permits and building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek a new approval (as if starting over again) from the Planning Commission and Township Board pursuant to the requirements of this Chapter.

Section 15A.11 – Saving Clause

If for any reason a court of competent jurisdiction determines that the Township cannot require an applicant to obtain a PUD rezoning approval as a prerequisite for exercising the clustering or open space/preservation development option pursuant to Act No. 177 or this Chapter, all other procedures and requirements of this Chapter shall remain applicable, including the site plan approval requirements of Chapter 12 of this Ordinance. If a court of competent jurisdiction determines that zone district(s) in addition to those listed in Section 15A.01 (A) of this Chapter are considered “lands zoned for residential development,” the requirements of this Chapter shall apply to the lands in such additional zone district(s).

SECTION 15.05 CERTAIN RESIDENTIAL DEVELOPMENTS AS PLANNED UNIT DEVELOPMENTS

- A. In the A-R, R-L and R-S Districts, no subdivision (as defined in Section 3.40) shall be established or created and no lot, site condominium unit or parcel of land in a subdivision shall be sold, conveyed, transferred or otherwise established, nor shall any building permit or zoning approval permit be issued, for any land in a subdivision unless such subdivision shall have been approved by the township as a Planned Unit Development (PUD).

SECTIONS 15.05 TO 15.99 RESERVED FOR FUTURE USE



CHAPTER 16
ZONING BOARD OF APPEALS

SECTION 16.00 CREATION AND MEMBERSHIP

- A. There is hereby created a Zoning Board of Appeals which shall perform its duties and exercise its powers and jurisdiction as provided in Zoning Act, and by certain provisions of this Ordinance to the end that the objectives of this Ordinance are observed, public safety, morals and general welfare secured and substantial justice done.
- B. The Zoning Board of Appeals shall consist of five (5) members as provided in the Zoning Act. The term of each member shall be three (3) years and until a successor has been appointed and qualified. Members of the Zoning Board of Appeals who are also members of the Township Board and from the Planning Commission shall have terms limited to their respective terms on the Township Board or the Planning Commission, as the case may be, or limited to such lesser period of time as may be determined by resolution of the Township Board at the time of appointment of such members.
- C. Alternate Members
 - 1. The Township Board may appoint not more than two (2) alternate members to the Zoning Board of Appeals for the same term as regular members. If two (2) alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the Zoning Board of Appeals in the absence of a regular member.
 - 2. An alternate member may also be called to serve in the place of a regular member when such member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made.
 - 3. An alternate member shall only serve to discuss or vote upon a case in the absence of a regular member or upon the conflict of interest of a regular member. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
- D. The Zoning Board of Appeals shall fix rules and regulations to govern its procedures.
- E. A member shall be disqualified from a vote in which there is a conflict of interest.

SECTION 16.01 JURISDICTION

- A. The Zoning Board of Appeals shall have the power to hear and decide, in accordance with the provisions of this Ordinance, applications for interpretations of this Ordinance, and may make decisions on any other special questions on which the Board is authorized to pass and in exercising all of its powers the Zoning Board of Appeals shall apply the standards of Section 16.03.
- B. When there is any question as to the location of any boundary line between Districts, upon a request for an interpretation of the zoning maps, the Zoning Board of Appeals shall establish the boundary based upon said maps and all available information relating thereto and shall establish such boundaries in such ways as to carry out the intent and purposes of this Ordinance and the Master Plan.
- C. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official or body charged with the enforcement of any provisions of this Ordinance.
- D. The Zoning Board of Appeals shall act upon all questions as may arise in the administration of this

Ordinance, including the interpretation of the language of this Ordinance.

SECTION 16.02 PROCEDURE ON APPEAL

- A. Upon all appeals from any order, requirements, decision, or determination of any administrative official or body, such appeal shall be taken within thirty (30) days by the filing with the Township Clerk a notice of appeal specifying the grounds thereof. The administrative official from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers consisting of the record upon which the action appealed was taken.
- B. Upon such appeal, the Zoning Board of Appeals shall hold a public hearing on such matter not earlier than fifteen (15) days after the date of such filing, and shall cause notice of the time and place of the hearing to be given to the applicant.
- C. The Zoning Board of Appeals shall give notice of the hearing to all owners of property within three-hundred (300) feet of the property to be affected by said appeal not less than 15 days prior to said hearing. The Zoning Board of Appeals shall maintain satisfactory evidence that said notices have been mailed. (Amended 2/3/2015)
- D. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body or to decide in favor of the appellant on any matter appealed, provided, however, a concurring vote of two-thirds (2/3) of the members of the Board shall be necessary to authorize a use variance.

SECTION 16.03 STANDARDS OF REVIEW

- A. A variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
 - 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same District;
 - 2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties;
 - 3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same District and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - 4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - 5. The variance will not impair the intent and purpose of this Ordinance.
 - 6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

SECTION 16.04 DECISIONS OF THE ZONING BOARD OF APPEALS

- A. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon. Upon failure to do so, such appeal or application shall thereupon be deemed to be decided adversely to the appellant or applicant in the same manner as though the Zoning Board of Appeals had rendered its decision to that effect.
- B. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Zoning Board of Appeals shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.
- C. For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:
 - 1. Description of the applicant's request.
 - 2. The Zoning Board of Appeal's motion and vote.
 - 3. A summary or transcription of all competent material and evidence presented at hearing; and,
 - 4. Any conditions attached to an affirmative decision.
- D. The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action.
- E. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make. Conditions shall be imposed in a manner in accordance with the Zoning Act and be related to the standards by which the decision is reached.
- F. Period of Validity

No variance granted by the Zoning Board of Appeals shall be valid for a period longer than twelve (12) months, from the date of its issuance if not used. However the applicant may, upon request, request, at no cost, up to one (1) twelve (12) month extension of said variance from the Zoning Board of Appeals. The Zoning Board of Appeals may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.

SECTION 16.05 RE-SUBMISSION

- A. No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the Zoning Board of Appeals finds that at least one of the following conditions exist:
 - 1. That the conditions involving all of the reasons for the original denial have been significantly altered.
 - 2. That new conditions or circumstances exist which change the nature of the original request.

SECTION 16.06 STAY OF PROCEEDINGS

- A. An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order.
- B. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

SECTIONS 16.07 TO 16.99 RESERVED FOR FUTURE USE

CHAPTER 17 ADMINISTRATION AND ENFORCEMENT
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SECTION 17.00 ZONING ADMINISTRATOR

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator, who shall be appointed by the Township Board.

SECTION 17.01 DUTIES OF THE ZONING ADMINISTRATOR

A. This Ordinance shall be enforced by the Zoning Administrator and Building Inspector who shall, in no case, issue any Building Permit nor grant any occupancy permit where the proposed structure, alteration, or use would be in violation of any provisions of this Ordinance, except under written order of the Board of Appeals or a court of competent jurisdiction. The Zoning Administrator shall interpret and enforce the Zoning Ordinance. The Building Inspector shall administer applicable building codes and shall issue building permits once a zoning compliance permit has been issued by the Zoning Administrator.

B. Violations

The Zoning Administrator shall investigate any alleged violation of this Ordinance coming as may be discovered. If a violation is found to exist, the Zoning Administrator shall serve written notice upon the owner to cease said violation as provided by law. If said owner fails to act diligently to correct said violation and does not correct such violation within fourteen (14) days or any extension of time required by the Zoning Administrator, the Zoning Administrator shall serve notice upon the owner, notify the Township Board, and prosecute such violator to terminate said violation before a court of proper jurisdiction.

C. Inspections

The Building Inspector shall inspect all new construction or alterations at the time footings are placed, when framing is underway, and at the completion of the construction or alterations authorized. The Building Inspector shall make such additional inspections deemed necessary to insure compliance with the provisions of this Ordinance. The Zoning Administrator shall make periodic inspections of the Township to ascertain that all the requirements of this Ordinance are being complied with.

D. Records

The Zoning Administrator and Building Inspector shall keep records of all inspections, applications, applications and permits issued, with a notation of all special conditions involved. They shall file and safely keep copies of all plans, other than for single family dwellings, and records of all fees submitted with applications. The same shall form a part of the records of the Township and shall be available to the Township Board and all other officials of the Township.

SECTION 17.02 ZONING COMPLIANCE AND BUILDING PERMITS

A. No structure or part thereof shall be constructed, reconstructed, erected, moved, enlarged, or altered, nor shall any use on any property be changed to another use, until a Zoning Compliance permit has been granted by the Zoning Administrator. Application for a Zoning Compliance permit shall be filed by the owner or an agent of the owner and it shall state the intended use of the structure and of the land. The application shall be accompanied by building plans and specifications, a plot plan, a site development plan

where required, and such other information as may be necessary to provide for the enforcement of this Ordinance.

- B. Plans shall be drawn to scale and shall show dimensions in figures. Plans shall be signed by the person preparing them and by the owner of the property or building involved. A fee as established by the Township Board from time to time to defray the costs of administration and inspections shall accompany any plans or applications for a Zoning Compliance or Building Permit.
- C. A Zoning Compliance permit shall only be issued if the plans and intended use conform in all respects to the provisions of this Ordinance. All Zoning Compliance permits shall expire one year from their date of issuance.
- D. A copy of all approved Building Permits shall be sent to the Assessor.
- E. A Zoning Compliance permit shall not be issued until the owner verifies that the lot involved has been created in conformance with this Ordinance and/or State and Township Subdivision Regulations.
- F. The Zoning Compliance permit and Building Permit shall be displayed so as to be visible from a public street at the site where authorized action is being undertaken.
- H. Pursuant to the above, the Township may utilize the Building Permit as the Zoning Compliance permit.

SECTION 17.03 CERTIFICATE OF OCCUPANCY

No land shall be used and no building hereafter erected or altered shall be occupied or used for any purpose until a Certificate of Occupancy shall have been issued by the Building Inspector stating that the premises or building complies with the provisions of approved plans and all Ordinances of the Township. Where any special land use or site plan review conditions are applicable, said conditions shall be stated on the Certificate of Occupancy. A record of all Certificates of Occupancy shall be kept on file in the Township. A copy shall be sent to the Township Assessor. Where a Building Permit is not involved, the Zoning Administrator shall issue a Certificate of Zoning Compliance. Said certificate may be in the form of a letter or such instrument as determined by the Township Board to be fulfill the requirements of this section.

SECTION 17.04 ZONING ORDINANCE AMENDMENTS

This Zoning Ordinance may be amended at any time pursuant to the procedures of the Township Rural Zoning Act (Pubic Act 184 of 1943), as amended, or its successor legislation.

- A. Initiation
 - 1. An amendment to the Zoning Map, which is a part of this Ordinance, may be initiated by the Township Board or Planning Commission on a motion by either body, or by a verified application of one (1) or more of the owners or lessees of property within the area proposed to be changed, or by a person authorized in writing by the property owner to submit such application.
 - 2. An amendment to the text of the Zoning Ordinance may be initiated by the Township Board or Planning Commission on a motion by either body or by a verified application of any person affected by the provision requested to be changed.
- B. Procedure for Changes
 - 1. Applications for Zoning Ordinance Map or text amendments shall be submitted to the Planning Commission upon forms supplied by the Township, along with the following information or materials:
 - a. A legal description of the property to be affected by a proposed change to the Zoning Map; or a typewritten copy of the proposed text amendment, including specific references to the portions of the existing Ordinance section and language.

- b. A drawing or map showing, at a suitable scale, the property to be changed by an amendment to the Zoning Map and the location of properties within three hundred (300) feet of the property affected by such amendment.
 - c. Payment of a fee, in accordance with a fee schedule, as determined by the Township Board from time to time.
2. Before submitting its recommendation to the Township Board, the Planning Commission shall hold at least one (1) public hearing, notice to be given in accordance with the requirements of the Zoning Act.
 3. The Planning Commission shall transmit a summary of comments received at the public hearing, along with the recommendation of the Planning Commission, to the Township Board. The Township Board may hold additional hearings if it considers it necessary. The notice for such hearing to be the same as required by the Planning Commission public hearing for the same matter.

C. Re-Submission

Whenever a proposed Zoning Map or text change has not been approved by the Township Board, the Planning Commission shall not reconsider such Map or text change for at least one (1) year following the date of the original application unless the Planning Commission finds that at least one of the following conditions exist:

1. That the conditions involving all of the reasons for the original denial have been significantly altered.
2. That new conditions or circumstances exist which change the nature of the original request.

SECTION 17.05 FEES AND SCHEDULE OF FEES

1. The Township Board shall by resolution establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during Township office hours at the Ensley Township Hall. Such fees may be changed from time to time by resolution of the Township Board. The applicant shall pay all applicable fees upon the filing of any application, any proposed site plan or any other request or application under this Ordinance and as to which a fee is prescribed. In addition to regularly established fees, the Township Board in its discretion may also require an applicant to submit to the Township (prior to Township review of an application or proposed site plan) an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except when authorized under appropriate provisions of the Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted either whole or in part. Such costs and expenses to be charged or assessed to the applicant, for reimbursement of the Township's reasonable costs and expenses, may include but shall not be limited to township attorney fees, township engineering fees, cost and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in question, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant which are not used or spent by the Township shall be refunded.
2. No action shall be taken on any application for any variance, ordinance amendment, Site Plan Review, Special Land Use, or any other review required by this Ordinance by the Township Board, Planning Commission, Board of Appeals, or Zoning Administrator unless or until fees connected with such application, as determined from time to time by the Township Board, have been paid.

3. Where structures have been constructed or occupied before any approval is granted or where a use is commenced prior to zoning approval, the fees for such application approval shall be doubled. Such increased application fees shall be in addition to any other penalty provided in this Ordinance or by law. Payment of such fees shall not relieve any person from fully complying with the requirements of this Ordinance.

SECTION 17.06 STOP WORK ORDER

- A. Notice to Owner. Upon notice from the Zoning Administrator or Building Inspector that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. Unlawful Continuance. Any person who continue to work in or about the structure, land or building or use it after having been served with a stop work order, except such work as that person is directed to perform to remove a violation, shall be in violation of this Ordinance.

SECTION 17.07 PENALTIES

- A. Penalties
 1. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged altered, maintained, or used, or any use of a lot or land which is begun, maintained, or changed, or any lot or parcel which is created in violation of any term or provision of this Ordinance, is declared to be a nuisance *per se*.
 2. Each and every day during which any violation continues shall be deemed a separate offense.
 3. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense, and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, expenses, and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.
- B. Procedure

In addition to civil infraction proceedings and sanctions, the Township may institute injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. (Amended 2/7/2006)

SECTION 17.08 PERFORMANCE GUARANTEES

- A. The Planning Commission, Zoning Board of Appeals and Township Board are empowered to require a performance bond or cashier's check, or other suitable negotiable security, in an amount equal to the estimated cost of improvements associated with the project.
- B. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance

of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance bond or cashier's check shall be forfeited.

- C. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator.
- D. In cases where the improvements indicated with the approved site plan have not been completed in accordance with the approval granted, the amount of the aforementioned performance guarantee may be used by the Township to complete the required improvements. The balance, if any, shall be returned to the applicant.

SECTION 17.09 EFFECTIVE DATE

This Ordinance shall be effective August 15, 1997.