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SHERMAN TOWNSHIP ZONING ORDINANCE

NEWAYGO COUNTY, MICHIGAN

PREAMBLE: An Ordinance to establish zoning districts, provisions and regulations for the unincorporated portions of the Township of Sherman pursuant to the provisions of Act 184 of the public Acts of 1943, as amended; to set forth regulations and minimum standards for the use and protection of lands and structures within each district; to establish provisions for the administration, enforcement and amendment of this Ordinance; to establish a Zoning Board of Appeals; and to prescribe penalties for the violation of the provisions herein.

THE TOWNSHIP BOARD OF SHERMAN TOWNSHIP, NEWAYGO COUNTY, MICHIGAN, HEREBY ORDAINS AS FOLLOWS:

ARTICLE I

TITLE AND PURPOSE

Section 1.01 - Short Title: This Ordinance shall be known as the Sherman Township Zoning Ordinance and will be referred to herein as "the Ordinance".

Section 1.02 - Purpose: The purpose of this Ordinance is to establish zoning districts in the unincorporated portions of Sherman Township to meet the needs of the citizens for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service and other uses of the land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population. These provisions are further designed to: conserve and protect lands, waters and other natural resources in the Township for their most suitable purposes as designated in the Sherman Township Land Use Plan of 2004; to protect productive agricultural lands for agricultural uses; to reduce hazards to life and property from flooding and air and water pollution; to secure safety from fire and other dangers at excessive public costs which result from unguided community development; to avoid undue concentration of population by regulating and limiting the density of use of the land; to lessen congestion on the public highways and streets; to facilitate the economical provision for adequate streets and highways, educational and recreational facilities, sewage, drainage; and water supply systems while avoiding the installation of such utility services in illogical locations; and to enhance the social and economic well-being of Sherman Township. In order to achieve this purpose the Ordinance shall designate or limit the location, height, number of stories and size of dwellings, buildings; and structures that may hereafter be erected or altered; the areas of yards and other open spaces; and the sanitary, safety, and protective measures that shall be required for such dwellings; and the maximum number of families which may be housed in buildings, dwellings and structures hereafter erected or altered.

Section 1.03 - Interpretation: In their interpretation and application, any enforcement officer or agency, any court, any Township Board member, any Planning Commission member, any Zoning Board of Appeals member shall hold the provisions of this Ordinance to be the minimum acceptable standards and requirements adopted for the promotion of the health, safety, security and general welfare of Sherman Township.

Section 1.04 - Scope: This Ordinance shall affect and regulate the use and occupancy of all land and every structure in the unincorporated portions of the Township. Where this Ordinance imposes greater restrictions than those imposed or required by provisions of other laws, ordinances, private restrictions, covenants, deeds or other agreements, the provisions of this Ordinance shall control except as otherwise provided by law.

Section 1.05 - Zoning Affects All Structures, Land, and Use Thereof: No Structure, land or premises shall hereafter be erected, moved, reconstructed, extended or altered except in conformity with the regulations and provisions of this Ordinance.

ARTICLE II

DEFINITIONS

Section 2.01 - Accepted Animal Waste Management Practices: Methods through which animal wastes are handled, stored or utilized in an environmentally acceptable manner so that pollutants generated by animal feeding operations and discharged to waters of the state are reduced to levels compatible with established water quality objectives.

Section 2.02 – Abandonment: Shall include any or all of the following characteristics or activities occurring for a specified time period of one-hundred eighty (180) days. See Section 4.05.

- 1) An action to give up one’s right or interest in a property or building.
- 2) An action to cease or discontinue a use or activity without intent to resume.
- 3) The visible or otherwise apparent intention of an owner to discontinue the use of a parcel or structure.
- 4) The removal of the characteristic equipment or furnishings used in the performance of a use, without its replacement by similar equipment or furnishings.
- 5) The replacement of a nonconforming use or structure by a conforming use or structure.

Said definition shall not apply in instances of temporary or short-term interruptions to a use or activity during periods of remodeling or maintenance, or during normal periods of vacation or seasonal closures, or during lapses between different owners or tenants who carry out the same use or activity.

Section 2.03 - Accessory Structure: A subordinate structure devoted to an accessory use and located on the same premises with a main structure. An accessory structure attached to a main structure shall be considered part of the main structure.

Section 2.04 - Accessory Use: A use naturally and normally incidental and subordinate to a principal use and located on the same premises and the principal use.

Section 2.05 - Adult Foster Care Homes: The provision of supervision, personal care, and protection in addition to room and board for twenty-four (24) hours a day for five (5) or more days per week, and for two (2) or more consecutive weeks, for aged or handicapped adults.

- 1) Adult Foster Care Family Homes is a private residence with the approved capacity to receive six (6) or fewer adults for five (5) or more days per week and for two (2) or more consecutive weeks.
- 2) Adult Foster Care Small Group Home is an adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.
- 3) Adult Foster Care Large Group Home is an adult foster care facility with the capacity to receive at least thirteen (13) but no more than twenty (20) adults to receive foster care.
- 4) Aged – An adult whose chronological age is sixty (60) years of age, or whose biological age is determined by a physician to be sixty (60) years of age or older.

Section 2.06 - Agriculture: The cultivation, raising and storage of crops, animals and animal products, including, but not limited to, nurseries, hatcheries, apiaries, forestry, floriculture, vineyards, pasturing, and dairying.

Section 2.07 - Agricultural Service Establishments: Establishments that engage in performing agricultural, animal husbandry or horticultural services for a fee or contractual basis. This includes, but is not limited to, centralized bulk collection, refinement, storage, and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading and packing of fruits and vegetables for the growers; and agricultural produce milling and processing); the sale and storage of seed, feed, fertilizer and other products essential to agricultural production; hay baling and threshing, crop dusting, fruit picking; harvesting and tilling; farm equipment sales, service and repair; veterinary services; and facilities used in the research and testing of farm products and techniques.

Section 2.08 - Alteration of Structures: A change in the supporting members of a structure, an addition, removal, conversion or moving of a structure from one location to another.

Section 2.09 - Automobile Service Station: A building, structure, or land used for the retail sale of fuel, lubricants, grease, and other operating commodities for motor vehicles; and including the installation of such commodities on or in such vehicles. This includes space for storage, hand washing, minor repair and servicing of vehicles, but not including major automobile repair (as listed below) or bulk fuel distribution.

Major Automobile Repair: General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, collision service, including body repair and frame straightening, painting, upholstering, vehicle steam cleaning and undercoating rust proofing.

Section 2.10 - Automotive Sales Area: An area used for the display, sale or rental of new or used motor vehicles, boats, trailers, construction equipment or motor homes in operable condition. This does not include the repair of above described vehicles.

Section 2.11 - Basement: A portion of a building or a portion of a room located wholly or partially below grade.

Section 2.12 - Bed and Breakfast Operations: A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit in which transient guests are provided a sleeping room and board in return for payment. Bed and Breakfast Operations are considered a special use.

Section 2.13 - Billboards: A structure using graphic symbols or written copy specifically designed for the purpose of advertising or identifying any event, establishment, product, service, or display. Which structure is located on a separate parcel from the business or event which is being promoted.

Section 2.14 - Board: Wherever the word "Board" is used it refers to the Sherman Township Zoning Board of Appeals.

Section 2.15 - Boardinghouse, Rooming House: A dwelling having one kitchen and used to provide room and board for compensation to more than two persons, who are not members of the family.

Section 2.16 - Building: A structure erected on-site, a mobile/*manufactured* home or mobile structure, a prefabricated or pre-cut structure, above or below ground, designed primarily for shelter, support or enclosure of persons, animals or property of any kind. (*added Dec 2012*)

Section 2.17 - Building - Height: The elevation at the front of a building measured from the average finished lot grade to the highest point of the roof.

Section 2.18 - Building Inspector: The person or persons appointed by the Sherman Township Board to administer the building code adopted by Sherman Township.

Section 2.19 - Building - Principal Use: A building in which is conducted the principal or main use of the lot on which it is situated.

Section 2.20 - Building Setback: The minimum distance from the front lot line or right of way line to the nearest point of the exterior of the building or structure.

Section 2.21 - Camp, Campground: Temporary or permanent buildings, tents, or other structures together with their appurtenances pertaining thereto, established or maintained as temporary living quarters, operated continuously for a period of five (5) days or more for recreation, religious, education or vacation purposes.

Section 2.22 - Confined Feedlots: The place of confined keeping of livestock or other animals for food, fur, pleasure, resale or training purposes in lots, pens, buildings or other areas not normally used for pasture or crops and in which abnormal amounts of manure or related other animal wastes may originate by reason of keeping of such animals, all of which to include, but not limited to, cattle, horses, pigs, sheep, chickens, turkeys, ducks, geese, and other fowl. See Section 17.06.

Section 2.23 - Construction: To form by combining materials, build or erect. The business of building.

Section 2.24 - District: A portion of the Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Section 2.25 - Dwelling: A building used as a permanent residence or sleeping place by one (1) or more persons. Dwellings shall include, but not be limited to, one (1), two (2) and multiple family dwellings, modular homes and prefabricated homes. Hotels, motels, or tourist cabins are excluded.

Section 2.26 - Dwelling, Farm: A dwelling unit located on a farm which is used or intended for use by the farm's owner, operator, or person employed thereon.

Section 2.27 - Dwelling, Single Family Detached: A building which is entirely surrounded by open space on its building lot, used and designed for one family.

Section 2.28 - Dwelling, Multiple Family: A building used or designed as a residence for three (3) or more families living independently of each other, including apartments and condominiums.

Section 2.29 - Dwelling, Two Family or Duplex: A detached building containing two (2) dwelling units and designed for use by two (2) families living independently.

Section 2.30 - Essential Services: The erection, construction, alteration or maintenance by private companies or municipal department of public works including gas, electrical, steam, communication, safety, water supply and distribution systems, sanitary sewer systems. This definition shall not include sanitary landfills, recycling centers or non-public utility transfer stations.

Section 2.31 - Excavate: To make a hole or cavity, to hollow or dig out. To remove by digging or scooping.

Section 2.32 - Family: One (1) or more persons living together in a single non-profit housekeeping unit, organized as a single entity in which the members share common kitchen facilities in a domestic relationship based on blood or ancestral relationship, marriage, adoption or other domestic bond, as distinguished from any society, club,

association or any other group whose domestic relationship is of a transitional or seasonal nature or for an anticipated limited duration.

Section 2.33 - Farm: Except as provided below, a farm is real property used for commercial agriculture comprising at least forty (40) contiguous acres which may contain other non-contiguous acreage, all of which is operated by a sole proprietorship, partnership or corporation, and including all necessary farm buildings, structures, and machinery.

- 1) A tract may be considered a farm if it is between five (5) and forty (40) acres, provided it is devoted primarily to an agricultural use, and has produced a gross annual income from agriculture of two hundred dollars (\$200.00) per year or more per acre of cleared and tillable land.
- 2) A smaller tract of land may be considered a farm if designated by the Department of Agriculture as a specialty farm in which one (1) ownership has produced a gross annual income from agriculture of two thousand dollars (\$2,000) or more.

Section 2.34 - Farm Animals: *for the purpose of the minimum land area (including minimum acreage amount) required hereunder, the land or land area involved must be owned by the individual(s) or agricultural firms engaging in the activity involved. Leased property cannot be utilized to meet the minimum acreage or area requirements of this section. (added Nov 2015)* Livestock, including, but not limited to: beef and dairy, cattle, goats, hogs, poultry, sheep and fowl, and other fur bearing animals, may be maintained on parcels of land of ten (10) acres or less, contingent on the following: One (1) animal unit for each two (2) acres, with a minimum of three (3) acres for the first animal unit.

Animal Unit Schedule: Swine - 0.5 Horses – 1 ~~Poultry, Chickens, Turkeys, Fowl~~ – 0.01 (del nov 2016)
Cattle – 1 Sheep/Goats - 0.25

All other animal types not in this table, but defined in the Michigan Right To Farm Act, or described in the Michigan Commission Of Agriculture Policy, are to be calculated as one thousand (1,000) pounds live weight equals one (1) animal unit.

On parcels of 1-3 acres, poultry, fowl, rabbits, may be maintained if the following are met;

1. Not to exceed 12 animals
2. No roosters
3. Not to be housed within 150 feet of lake, stream or river.
4. To be confined to fenced run within the rear yard of the owner’s property.
5. The presence of animals creates no nuisance, odors or noise objectionable to neighbors.

Section 2.35 - Flood Plain: All areas adjoining a lake, stream, river or creek or channel which are subject to inundation at the highest known flood water level.

Section 2.36 - Floor Area: The area of all floors computed by measuring the dimensions of the outside walls of a building. Excluded are: porches, patios, terraces, breezeways, carports, verandas, garages, unfinished attics, attic floor areas with less than five (5) vertical feet from the floor to the finished ceiling, and all basements, including walkout basements.

Section 2.37 - Garage - Private: An accessory building or portion of a principal building used primarily for the storage of passenger vehicles and for not more than one truck of a rated capacity not to exceed one ton.

Section 2.38 - Garage - Public: A building used for commercial repair or storage of vehicles.

Section 2.39 - Greenbelt: A planting or buffer strip at least twenty-five (25) feet in width composed of deciduous and/or evergreen trees spaced not more than thirty (30) feet apart and not less than one row of dense evergreen shrubs not less than three (3) feet in height and spaced not more than five (5) feet apart.

Section 2.40 - Inland Lake, River, or Stream: A natural or artificial lake, pond, impoundment, river, stream or creek which may or may not be serving as a drain, or any other body of water which has definite banks, bed and visible evidence of a continued flow or continued occurrence of water.

Section 2.41 - Home Occupations: Any use customarily conducted entirely within a dwelling and carried on by inhabitants thereof, without being evident in any way from the street or from neighboring premises. See Section 3.22.

Section 2.42 - Hotel: A building in which lodging and boarding are offered to the public for compensation. Boardinghouses, motels, motor hotels and apartments are excluded.

Section 2.42.1- Inoperable Vehicle and/or Unlicensed means any vehicle which can not be started or legally or physically operated on city streets or public highways by virtue of lacking the equipment required by the laws of the State of Michigan. (June 2009)

Section 2.43 - Institutional or Public Uses: Churches, schools teaching academic subjects, hospitals, convalescent or nursing homes, parks, civic centers, libraries, and other public uses.

Section 2.44 - Junk or Salvage Yard: An open area used for the collection, storage, dismantling, dumping, display, resale, exchange, baling, cleaning or handling of second hand, salvaged or used waste materials, machinery, vehicles, trailers, equipment, furnishings or parts thereof. The purchase or storage of used furniture and household equipment, used cars, boats or trailers in operable condition are excluded if such uses are carried on in completely enclosed buildings.

Section 2.45 - Kennel: Any place where three (3) dogs or more, six (6) months of age or older, are kept for the purpose of boarding, breeding, training or sale.

Section 2.46 - Keyhole Development (Funneling): The use of waterfront property, parcel or lot as a common open space for waterfront access for a development located away from the waterfront. Keyhole development includes but is not limited to, the use of waterfront property, parcel or lot for waterfront access by owners, leasers, or licensees, or by members of the family or occasional guests of any such persons, or any of the following types of property: See Section 3.24.

- 1) Non-waterfront property under separate legal description of the County tax role or property acquired under separate legal description on file with the County Register of Deeds, as of the effective date of this Ordinance.
- 2) Non-riparian property, as of the effective date of this Ordinance.
- 3) Property separated from the shoreline properties by a public road. See Section 3.24, Keyhole Development.

Section 2.47 - Lodging: A temporary dwelling place, living quarters for transient dwellers either daily, weekly or monthly.

Section 2.48 - Lot: A parcel of land adjoining a dedicated public street or a perpetual, recorded private street or any legal easement, and separated from other parcels by legal description, deed or subdivision plat. *The word "lot" shall also include the portion of the condominium project designed and intended for separate ownership and use as described in the master deed.* (April 2008)

Section 2.49 - Lot Corner: A lot situated at the intersection of two or more streets.

Section 2.50 - Lot Coverage: The percentage of a lot which is covered by structures including porches, arbors, breezeways and patio roofs (whether open or closed). Fences, walls, hedges and swimming pools are excluded.

Section 2.51 - Lot - Front: That side of a lot other than a corner lot, abutting on a street right of way. The front of a lot abutting lakes and streams shall be that portion of the lot nearest the water.

Section 2.52 - Lot - Front Setback Line: the distance from the road right of way required to meet the front yard requirements of the respective zoning district.

Section 2.53 - Lot Line: The lines bounding any lot as herein described.

Section 2.54 - Lot, Lawfully Created: Any lot which when created, complied with all applicable provisions regarding lot dimensions in the Sherman Township Zoning Ordinance in effect on the date of the creation of the lot.

Section 2.55 - Lot of Record: A lawfully created lot which is part of a subdivision and is shown on a plot or a map thereof which has been recorded in the office of Register of Deeds for Newaygo County prior to the effective date of this Ordinance; or a parcel of land described by metes and bounds which is subject of a deed or land contract recorded in said office prior to said date.

Section 2.55A - Medical Marihuana Dispensary: *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 Sherman Township ordinances, but also all applicable Michigan and federal laws and regulations. sect 2.55A added Oct 2011*

Section 2.56 - Mobile or Manufactured Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle. See Section 3.15 (6). *(Added Dec 2012)*

Section 2.57 - Mobile Home Lot: A designated site within a mobile home park for the exclusive use of occupants of a single mobile home.

Section 2.58 - Mobile Home Park: A parcel of land in single ownership which has been developed with all the necessary facilities and services in accordance with a site development plan meeting all the requirements of this Ordinance as well as State regulations, and which is intended for the express purpose of providing a satisfying living environment for mobile home residents on a long term basis.

Section 2.59 - Modular Home: A dwelling consisting of two (2) or more transportable factory fabricated units designed to be assembled as a single residential dwelling on a permanent foundation as required by this Ordinance. See Section 3.15 (6).

Section 2.60 - Motel, Tourist Cabin, Motor Hotel: A building or group of buildings which has living or sleeping accommodations used primarily for transient occupancy and having individual entrances from the outside of the building to serve each unit.

Section 2.61 - Non-Conforming Structure: A structure lawfully existing at the time of adoption of this Ordinance and any amendment thereto, and which does not thereafter conform to the regulations of the district in which it is located. A structure which is not licensed pursuant to law, or which violates any law or ordinance is not a lawful structure.

Section 2.62 - Non-Conforming Use: A lawful use of a lot or parcel prior to the adoption of this Ordinance and any amendment thereto and which does not thereafter conform to the regulations of the district in which it is located. A use which is not licensed pursuant to law, or which violates any law or ordinance is not a lawful use.

Section 2.63 - Planning Commission: The Planning and Zoning Commission of Sherman Township, Newaygo County.

Section 2.64 - Principal or Main Use or Structure: The primary or predominant use or structure pertaining thereto, of a premise.

Section 2.65 - Quarry, Quarry Operation: Any place where stone, gravel, minerals, or other natural materials is removed for the purpose of sale or any other commercial purposes.

Section 2.66 - Recreational Vehicle: All small mobile units principally designed for recreational use such as motor homes, camper trailers, pick-up campers, pop-up campers, pop-up trailers, fifth wheelers, and similar camping type vehicles or trailers.

Section 2.67 - Right-of-Way: A street, private road, shared driveway, or easement permanently established for passage of persons or vehicles.

Section 2.68 - Sewage Disposal System: A sewage disposal system includes any structure in which sewage originates, meaning a building in which toilet, kitchen, laundry, bathing or other facilities which generate water-carried sanitary sewage are used or available for use for household, commercial, or other purposes.

Section 2.69 - Signs: Any device, structure, fixture or placard, using graphics, symbols and/or written copy specifically designed for the purpose of advertising or identifying any event, establishment, product, or service and which is located on the premises and related to activity of the premises.

Section 2.70 - Single Ownership: A parcel of land of record on or before the effective date of this Ordinance which is owned by one or more persons having no legal rights in adjacent property.

Section 2.71 - Site Development Plan: A scale drawing which shows the location and dimensions of existing conditions and proposed improvements upon a parcel of land, including buildings, driveways, parking areas, landscaping, lighting, sidewalks, signs, sewage systems, and drainage facilities, and any other items that may be required therein. See Article XVIII.

Section 2.72 - Stable - Private: A stable used only for housing horses owned by a person and used by the owner and family.

Section 2.73 - Stable - Public: All stables other than private stables as described in this Ordinance.

Section 2.74 - Story: That portion of a building between the surface of any floor at grade level and the surface of the floor next above it, or if there be no floor above, then the space between such floor and the ceiling next above it. A story thus defined, shall not include any portion of a building having more than fifty percent (50%) of its total cubic content below the established grade level.

Section 2.75 - Street: A dedicated and accepted public thoroughfare including the right of way and roadway, private road and shared driveways. See Section 3.35.

Section 2.76 - Structure: (1) *A structure is anything constructed, or erected or placed item or any material or combination of materials or any items in, on or upon the ground having a generally fixed location, including but, not limited to, (temporary or permanent) buildings, sheds, signs, swimming pools, animal enclosures, garages, accessory buildings, porches, temporary or portable garages, or vehicle enclosures, decks, patios, platforms, gazebos, mobile home pads, tennis courts, and storage bin, but excluding lawful fences, lawful docks, satellite dishes, sidewalks, and paving on streets, driveways, or parking areas. The definition of structure also excludes retention walls, seawalls, decks or patios, no portion of which is located more than 12 inches above the natural grade nor closer than 5 feet to any lot line.*
(2) *Structures shall meet all setback requirements (changed Dec 2012)*

Section 2.77 - Swimming Pool: A structure used to hold water for swimming and aquatic recreation. Plastic, canvas or rubber portable pools temporarily erected upon the ground holding less than three hundred (300) gallons of water are excluded.

Section 2.78 - Terms: The present tense shall include the future; the singular shall include the plural, and the plural, the singular. The word "shall" is always mandatory. The words "zone" and "district" are the same. He shall mean she, she shall mean he. Reference to a whole shall include any part thereof. The word "may" is not necessarily required, only optional.

Section 2.79 - Topsoil: Is that portion of soil, generally the upper most layer that is capable of being used to grow vegetation.

Section 2.80 - Variance: A varying or relaxation of any land use or of the dimensional requirements of the Ordinance by the Zoning Board of Appeals; and where such variance will not be contrary to the public interest.

Section 2.81 - Yard: An open space on a lot, except as otherwise provided in this Ordinance. All measurements shall be made between the nearest point of the lot line or right of way and the nearest point of a structure located thereon.

Section 2.82 - Yard, Front: A yard extending across the required lot width of the front of the lot measured from the structure side fronting the street, private road, shared driveway, or easement. See Section 3.35.

Section 2.83 - Yard, Rear: A yard extending across the full width of the rear of the lot.

Section 2.84 - Yard, Side: A yard between the principal structure and the side lot line and between the front and rear yards.

Section 2.85 - Zoning Administrator: The person or persons appointed by the Sherman Township Board to administer the Zoning Ordinance.

Section 2.86 - Zoning Permit: A standard form issued by the Zoning Administrator upon application and declaration by the owner or the duly authorized agent regarding proposed construction and use of land, buildings and structures thereon; granting approval or denial for the location of the construction and/or use applied for. See Section 20.02.

ARTICLE III
GENERAL PROVISION

Section 3.01 - Purpose: General regulations apply to all districts except as noted herein. Where requirements of a general provision and a district regulation differ, the more restrictive requirement shall prevail.

Section 3.02 - Accessory Structures: The following requirements shall be met:

- 1) An accessory structure without the presence of a principal dwelling may be permitted in all districts, except in Lake Residential, provided the following requirements are met.
 - A) Shall be located on a parcel of land no less than five (5) acres.
 - B) Shall have a minimum floor area of no less than four hundred eighty (480) square feet, except for agricultural use in Rural Residential and Agricultural Districts.
 - C) Shall comply with all side, rear, and front yard requirements pertaining to this type of construction specified in this Ordinance.
 - D) *Accessory buildings shall be stick-build or the equivalent new building construction. No mobile home, tank, junk object, salvage material, trailer, semi-truck 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 agriculture storage or activities.*
 - E) *Shall have a concrete floor and meet all adopted Township building codes and shall comply with all State and local regulations to inhibit or otherwise discourage unlawful entry. See Section 20.03. (changed Dec 2012)*
- 2) Accessory buildings one hundred twenty (120) square feet or less not fastened down shall be considered structures for purposes of a Zoning Permit Only
- 3) Accessory buildings are prohibited directly in front of the dwelling unless they are attached to the dwelling. (Exception is made for all parcels abutting a lake or stream. (See 11.04(B))
- 4) Accessory buildings in side yards must meet one-half (1/2) side yard requirements for each district, but never less than five (5) feet for each district.
- 5) Accessory buildings in rear yards must be at least ten (10) feet from any lot line except in Lake Residential where accessory buildings must be at least five (5) feet from any lot line on all non-conforming lots.
- 6) No accessory building shall be closer than five (5) feet to any other accessory building and ten (10) feet to the principal building.
- 7) Accessory buildings shall be located at least fifteen (15) feet from any public or private road right-of-way line, except on a corner lot and Lake Residential District.
- 8) No accessory building shall be used for dwelling purposes. A mobile *or manufactured* home cannot be used for an accessory use, for by definition a mobile *or manufactured* home when used as a dwelling would come under all regulations in this Ordinance for dwellings. See Section 3.15
(added Dec 2012)
- 9) In the Lake Residential District, where the owner has a lot directly across a street right-of-way from the owners dwelling, one accessory building may be permitted. Any additional structures shall be treated as Special Use.

- 10) No accessory building in the Lake Residential, Suburban Residential, or Urban Residential districts may exceed ~~one thousand three hundred (1300)~~ *twenty four hundred (2,400)** square feet except for farm use. *added june 2017
- 11) Landings for minimum ingress and egress and/or awnings over doors or windows do not require a Zoning or Building Permit.
- 12) *If an accessory structure and principal dwelling are to be erected, a building permit for the accessory structure shall not be issued until such time that construction of the principal dwelling has been given an approved rough-in inspection. The Michigan Residential 2009 code book defines in section R109.1.4 frame and masonry inspection what work needs to be completed before the owner of a dwelling under construction can be given an approved rough-in inspection report. In the case of a pre-manufactured or modular home, proof of purchase and receipt would allow the owner to apply for an accessory structure building permit. Upon approval of said permit, an accessory structure may be permitted. (added nov 2015)*

Section 3.03 - Adult Foster Care Home: Adult Foster Care Homes must be licensed by the State pursuant to Public Acts 218 of 1979 as amended.

- 1) Adult foster Care Family Homes may be allowed in all districts.
- 2) Adult Foster Care Small Group Homes may be allowed in all districts except Lake Residential and Resort Districts.
- 3) Adult Foster Care Large Group Homes shall be permitted in Rural Residential, Urban Residential, Wilderness and Commercial Districts.

Section 3.04 - Area or Space Required: No lot, yard, parking area or other space shall be reduced to less than the minimum required under this Ordinance. No lot or other area shall be further reduced if already less than minimum.

Section 3.05 - Black Dirt: By definition is a mixture of various organic components such as muck, peat or spoil from excavation of ponds, ditches, etc., and mixed with other materials such as sand, clay, etc., this making of black dirt is an attempt to create a mixture that may be sold as topsoil. See Section 17.13 2) B).

Section 3.06 - Basement Dwellings: The use of a partially built or planned building as a residence or dwelling unit is prohibited in all zones. The use of a basement more than 4 feet below grade in a completed building for sleeping quarters or a dwelling unit is prohibited unless there are two (2) means of direct access to the outside. In buildings where one (1) wall is entirely above grade level of the yard adjacent to said wall and access to the out-of-doors is provided, the building is not considered a basement dwelling. See Section 3.15.

Section 3.07 - Boundaries of Districts: The Zoning Map is part of this Ordinance. District boundary lines follow lot lines, section lines, fractional section lines, lake and river boundaries and center lines of streets as they existed at the time of adoption of this Ordinance. Where a district boundary line divides a lot, the more restrictive shall prevail.

- 1) In the event that the Lake Residential (L-R) District boundary line divides a parcel of land under common ownership and fifty percent (50%) or more of the parcel area falls within the L-R district, then the Lake Residential district regulations shall be applied to the entire parcel. When less than fifty percent (50%) of the parcel area falls within the L-R district, regulations shall only apply to that portion of the parcel within the Lake Residential District.
- 2) All Lake Residential delineations are based on undated aerial maps from:

John Kestler and Assoc., Inc.
Grand Haven, MI 49417

And these written delineations are to resolve any conflicts or questions arising from drawing of the boundaries on the Sherman Township Zoning Map.

Section 3.08 - Building Code Board of Appeals: All persons shall have a right to appeal the Building Inspector's decisions through a body appointed by the Township Board, so named the Building Code Board of Appeals; qualified by experience and training to pass upon matters pertaining to building construction.

Section 3.09 - Channelization: There shall be no new channelization on lakefront properties which would increase the numbers of lake users and therefore substantially increase the dangers of polluting or degrading the water quality of the lake and quality of life of property owners.

Section 3.10 - Clear Vision Corners: All intersections of public streets shall be provided and maintained with a clear unobstructed vision corner extending not less than twenty (20) feet from all right-of-way line intersections along said right-of-way line in the form of an isosceles triangle, within which no vehicle parking or obscuring structures, storage, growth or displays shall be located or allowed.

Section 3.11 - Corner Lots: Any yard which abuts a street right-of-way shall meet the front yard requirements of the district in which it is located.

Section 3.12 - Damaged Buildings:

- 1) A building damaged by fire, collapse, a criminal act, or an act of God, to such an extent that the cost of repair and reconstruction exceeds its replacement cost shall be repaired, reconstructed or demolished according to the provisions of this Ordinance and any appropriate building codes.
- 2) A building damaged by wear and tear, deterioration and depreciation to such an extent that the cost of repair and rehabilitation exceeds sixty percent (60%) or its replacement value at the time the repairs or rehabilitation are proposed to be made, shall be repaired, rehabilitated or demolished according to the provisions of this Ordinance and all building codes relative to the new construction.
- 3) Zoning and building permits must be secured before reconstruction of a building shall commence. The Building Inspector shall determine the extent of such destruction, deterioration, or depreciation before zoning and/or building permits are issued.

Section 3.13 - Driveways: An approved driveway permit shall be obtained from the state highway department and/or the county road commission and submitted to the Building Inspector prior to issuance of a building permit.

Section 3.14 - Dwellings on More Than One Lot: Adjoining non-conforming lots: If a structure is to be located on a parcel of land containing two or more adjoining non-conforming lots under single ownership, *the entire parcel shall be considered "a lot" for the purposes of this Ordinance and shall be legally combined as one lot. (changes April 2008)*

Section 3.15 - Dwelling Units: All dwelling units located outside of mobile home parks shall comply with the following minimum requirements:

- 1) All dwelling units must comply with the following square footage *and width requirements*:
 - A) A one-story (1) dwelling without full basement shall have a minimum first floor area of nine hundred sixty (960) square feet *and a minimum width of 20 feet for at least 67% of its length*
 - B) A one-story (1) dwelling or a split-entry house with a full or walkout basement shall have a minimum first floor area of eight hundred (800) square feet.
(added 20 feet requirement Dec 2012)

- C) A two-story (2) dwelling with or without a full basement shall have a minimum first floor area of eight hundred (800) square feet. A two-story (2) house shall have two (2) full stories above the existing grade.
 - D) Multiple-family dwellings shall have a minimum floor area of four hundred eighty (480) square feet per unit.
 - E) *The minimum width of any dwelling shall be at least twenty (20) feet at the time of initial construction, installation or manufacture, and such minimum width must be maintained for at least 67% of the dwelling's length. No addition may be used to satisfy such minimum dwelling width unless the addition is of the same construction type and materials as the overall dwelling. (added Dec 2012)*
- 2) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half (7 ½) feet.
 - 3) All dwelling units shall provide storage areas – either within a basement, attic, garage, a crawl space, or in a separate, fully enclosed structure – of not less than ten percent (10%) of the living area of the dwelling. Said storage areas shall not be counted in determining whether the dwelling unit complies with the minimum floor area of this Ordinance.
 - 4) All dwelling units shall provide a minimum of two (2) separate points of ingress and egress to the building
 - 5) The linkage or placement of more than one *mobile*/manufactured home, or prefabricated, separate, independent dwellings shall not be permitted. *(added Dec 2012)*
 - 6) All dwelling units are to be connected to a public water and sewer, if available, or to such private facilities approved by the County Health Department. See next sub-section, 7.
 - 7) Sanitary Waste and Subsoil Drainage Systems:
 - A) Where sanitary sewer is available;
 - 1) At the discretion of the White Cloud/Sherman Utilities authority, no sewage disposal system will be permitted within five hundred (500) feet of any inland lake or stream within one half (1/2) mile of an existing municipal sewer system.
 - B) Where sanitary sewer service is not available;
 - 1) Sanitary drainage systems are not permitted closer than one hundred (100) feet from any inland lake or stream.
 - 2) All new developments, plats, or parks within one half (1/2) mile of an existing sanitary sewer system must provide all sanitary sewage facilities as required and connect all sites, plats, and parks to the existing sanitary sewage system. This is the developer's financial responsibility and must be completed, or performance bond provided, prior to final approval of any new plot, plat, park, or development
 - 3) No septic or drainage system shall be nearer than forty (40) feet from any subsoil drainage system or footing drain that empties directly into, or within forty (40) feet of any inland lake or stream.
 - 4) All septic systems, drainage systems, and sewage storage and delivery systems must meet all regulations as provided by law.
 - 8) Storage of abandoned or unusable personal property shall not occur outside of the dwelling unit, garage, or accessory buildings.
 - 9) Chimneys for furnaces, fireplaces, or wood burning stoves shall be constructed of underwriters' approved construction, and shall be enclosed with materials compatible with the exterior finish of the dwelling below the roof line.

- 10) Every dwelling unit must comply with all pertinent building and fire codes. In case the dwelling is a mobile home, all construction, plumbing, electrical apparatus, and insulation within and connected to said mobile home shall conform to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development (HUD), being 24-CFR-2380, and as from time to time such standards are amended. Additionally, all dwellings shall meet or exceed all roof snow load requirements.
- 11) In the event a dwelling unit is a mobile *or manufactured (added Dec 2012)* home, the home must be installed with wheels removed, and anchored to a cement slab four (4) inches or more in thickness, size covering the entire length and width of the mobile home. *There shall be a foundation of concrete or block around the entire exterior perimeter of the dwelling.** This shall take place within sixty (60) days of the home being placed on any lot.
**changed Dec 2009*
- 12) No mobile home will be occupied until a temporary or Certificate of Occupancy is received from the building inspector. See Section 20.04
- 13) The foregoing standards shall not apply to mobile homes in licensed mobile home parks, except to the extent required by state or federal law or otherwise specifically required in the Ordinance pertaining to such parks.
- 14) All construction required herein shall commence only after zoning and building permits have been obtained.

Section 3.16 - Flood Plain Areas: No dwelling shall be erected, or hereafter occupied, if vacant, in flood plain areas. The flood plain areas of lakes, rivers and streams shall be determined by an engineer or agency designated by the Newaygo County Board of Commissioners and information kept at the Newaygo County Drain Commission.

Section 3.17 - Essential Public Services: It shall be lawful for public utilities, departments or commissions to erect, construct, alter or maintain underground or overhead gas, electrical, water distribution, transmission systems or collection, communication supply or disposal systems, including poles, towers, drains, sewers, pipes, conduits, wire cables and accessories for the furnishing of adequate services by public or municipal departments for health, safety and general welfare, in any zoning or land use district in Sherman Township. This is provided that the erection of all above ground construction consisting of necessary buildings and structures be designed and erected to be harmonious with the general architecture and plan of the district in which it is to be erected. This shall be subject to the approval of the Township Planning Commission as listed below.

The Planning Commission is hereby granted the power to permit as a special use to any public service corporation, the erection of any structure as listed in the above paragraph. This is provided that the Planning Commission shall find that such use, height, area, buildings or structure is designed, erected and landscaped to conform to the district in which it is located; and that the advantage of the proposed location to the utility is not outweighed by the detriment to the locality, and that a different location is not readily available. See Site Development Plan. A zoning and/or building permit shall be required before installation.

Section 3.18 - Front Yard: The front yard of a lot must abut a street right-of-way, private road, shared driveway, or easement. However, on water front lots, the rear yard must abut on a street right-of-way, private road, shared driveway, or easement. In any residential district where the average front yard setback of two (2) or more buildings within two-hundred (200) feet of the lot or parcel in question and on the same side of the street is less than or greater than the minimum required front yard setback, then the required front yard setback of such lot or parcel shall not be less than the average existing front yard setback of such buildings, *and shall never be less than the minimum required front yard setback per district.** **added Oct 2011*

Section 3.19 - Front Yards - Basis for Determining: Front yards shall be measured from the road right-of-way, private road, shared driveway, or easement to the nearest portion of the structure. See Section 3.35.

Section 3.20 - Greenbelts: A greenbelt shall be required in the side and/or rear yards of any commercial or industrial use which abuts a residential district. The greenbelt may be part of the side or rear yard. Adjacent residential property owners may waive the greenbelt requirement or request a solid fence in place of the greenbelt. Such waivers or requests shall be in writing and be presented to the Planning Commission prior to issuing permits.

Section 3.21 - Height Exceptions:

- 1) All Districts: Height requirements may be exceeded by chimney, silos, farm barns and storages, TV towers and radio antennas, cupolas, spires, ornamental projections, or water towers provided they are located not less than the same distance as their height from any adjoining property line.
- 2) Industrial Uses: Chimneys, cooling and fire towers, elevator building and bulkheads, roof storage tanks, and other necessary accessory structures are permitted provided they are located not less than the same distance of their height from any adjoining property line.

Section 3.22 - Home Occupations: Any use customarily conducted entirely within a dwelling and carried on by inhabitants thereof, without being evident in any way from the street or from neighboring premises. In order to preserve the residential character of the neighborhood and/or the residential uses of existing homes, and to maintain a segregation between the areas that are characterized as residential and those characterized as commercial and industrial, permitted home occupations shall:

- 1) Involves activities within the dwelling and/or un-attached accessory building.
- 2) Occupy no more than twenty-five percent (25%) of the dwelling.
- 3) Not alter the exterior character of the residential building.
- 4) Signs, See Section 5.01(3).
- 5) Be conducted as an accessory use only by residents of the dwelling
- 6) Employ only mechanical equipment which is similar in power and type usual for household purposes and hobbies.
- 7) Do not utilize explosive material, create noise, odors, radio/electrical disturbances, glare, vibrations, fumes or endanger any person, or other disturbances to the peace and tranquility of the surrounding neighborhood.
- 8) Do not create a greater volume of traffic than normal residential use.
- 9) Any occupation conducted within a dwelling or un-attached building which does not meet all of the above conditions shall be considered a Home Business Occupation and is permitted only as a special use under Section 17.15

Section 3.23 - Institutional Uses: Institutional uses, as a special use may be permitted in any district upon approval by the Planning Commission as provided in Special Uses and Site Development Plan.

Section 3.24 of the Sherman Township Zoning Ordinance is hereby changed to read in full as follows:

SECTION 3.24. LAKE ACCESS AND FRONTAGE; KEYHOLE/FUNNELING DEVELOPMENT

The following restrictions are intended to limit the number of users of lake, river, and 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.

- 1) In all zoning districts, there shall be at least One Hundred (100) 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, parcel, lot, cottage, condominium unit, site condominium unit, or apartment unit utilizing or accessing the lake, river, or stream frontage.
- 2) Any multiple-unit residential development in any zoning district that shares a common lake, river, or stream front area or frontage shall not permit lake, river, or stream use or access to more than one (1) single-family home, dwelling unit, lot, parcel, cottage, condominium unit, site condominium unit, or apartment unit for each One Hundred (100) feet of lake, river, or stream frontage in such common lake, river, or stream front area, as measured along the ordinary high water mark of the lake, river, or stream.
- 3) Any multiple-unit residential development shall have not more than one (1) dock for each One Hundred (100) feet of lake, river, or stream frontage, as measured along the ordinary high water mark of the lake, river, or stream, in any zoning district in the township. All such docks and docking or mooring shall also comply with all other applicable Township ordinances.
- 4) The above restrictions shall apply to all lots and parcels on or abutting any lake, river, or stream in all zoning districts, regardless of whether access to or use of the lake, river, or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, lease or other device or arrangement.
- 5) 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 or nonresidential or nonagricultural uses or purposes unless such use is allowed in the zoning district where the property is located and is also authorized pursuant to a special use approval or a planned unit development (PUD) approval.
- 6) The lake, river, and stream access and use regulations contained in this Section shall be fully applicable to all planned unit development (PUD) and special use projects or developments.
- 7) Refer to other applicable Township ordinances for other keyhole, dock, and similar regulations.
- 8) In addition to the above limitations, no easement, private park, common area, lot or access property abutting or adjoining a lake, river, or stream 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 use is also approved as a special land use (and meets the requirements of the zoning district involved) or as a planned unit development (PUD).
- 9) The minimum water frontage requirements of this Section shall be doubled if the property involved is comprised of a wetland as defined by Michigan law.
- 10) If a property is located within a zoning district where the minimum lot width requirement is greater than One Hundred (100) feet, the minimum water frontage requirements of subsections 1, 2, and 3 hereof shall be increased so as to equal the minimum lot width requirement of the zoning district in which the property is located.
- 11) This Section also applies to Keyhole Developments.

Effect. Except as expressly amended pursuant to Article 1 above, the Sherman Township Zoning Ordinance, as amended, shall remain unchanged and in full force and effect.

Severability. Should a court of competent jurisdiction hold that this ordinance/ordinance amendment (or any portion thereof) is invalid or unconstitutional, that shall not affect the rest of this ordinance/ordinance amendment, which shall remain intact and fully valid. *(the entire section 3.24 was replaced April 2014)*

Section 3.25 - Lot Accessibility: No dwelling unit shall be built on a lot unless the lot abuts upon a public street, private road, shared driveways, or upon a permanent unobstructed access easement of record to a public street. See Private Roads and Driveways, Section 3.35.

Section 3.26 - Lot Splits: All proposed lot splits should have prior approval by the Zoning Administrator in order to ensure all regulations of the Zoning Ordinance are being met and to ensure violations of the Plat Act do not occur.

Section 3.27 - Lots of Record - Existing Platted: A lot of record shall include a lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds, or a lot described by metes and bounds, the deed to which has been recorded in the office of the Register of Deeds, prior to the effective date of this Ordinance.

Section 3.28 - Lots of Record - Non-Conforming: Lots of record located in districts permitting single family dwellings must have a front yard of at least thirty (30) feet, two side yards of at least ten (10) feet each, and a rear yard of at least fifteen (15) feet. Off street parking requirements shall be met. Lot coverage shall not exceed thirty percent (30%).

The Zoning Administrator may permit lots of record not meeting the above requirements upon making the following determinations:

- 1) The lot is of single ownership.
- 2) There is no practical way of obtaining more land.
- 3) The proposed use cannot be located on the lot such that the minimum requirements are met.
- 4) The proposed use will not adversely affect adjacent property values or the character of the neighborhood.
- 5) One side yard of ten (10) feet and one side yard never less than five (5) feet, including eaves, from property line for dwelling and accessory structures. *(a section removed May 2011)*
- 6) The front yard shall be at least twenty (20) feet and the rear yard at least fifteen (15) feet.
- 7) Building heights. Side walls shall not exceed twenty (20) feet. Roof peak shall not exceed thirty (30) feet or two and one-half (2 ½) stories, which ever is less. (Does not include height of basement.)

Section 3.29 - Mobile or Manufactured Housing: A structure designed for use as a dwelling unit which is transportable in one or more sections, built on a permanent chassis, and designed for use with or without a permanent foundation. The term does not include recreational vehicles, travel trailers, or recreational units. **Was 8 years, changed Dec 2009*

- 1) A mobile or manufactured home as new construction or replacement home must meet H.U.D requirements for the geographical area where it is to be located or relocated in Sherman Township.
- 2) ~~A single wide mobile home as new construction is allowed in the Agricultural, Rural Residential, Urban Residential, and Wilderness Districts.~~ *(deleted 2 Dec 2012 and added Dec 2012)*
- 2) Will be considered a dwelling unit when connected to required utilities and which is or is intended to be attached to the ground. See Section 3.15.

Section 3.30 - Mobile Home Storage and Recreational Vehicle Storage/Use:

- 1) It shall be unlawful for any person to park, or cause to be parked, any motor home or recreational vehicle on any street, highway, or public place for storage, use as a dwelling, or for overnight stops.
- 2) No mobile home shall be stored on any land within the Township for a period of longer than two (2) weeks.
- 3) Recreational vehicles owned by and residents or property owners within the Township shall not be connected to water or sanitary facilities, nor shall they be occupied.
- 4) Travel trailers, camper trailers, motor homes, fifth wheelers, boats, and boat trailers may be in storage on the same property as the principle residence, or on lots of record that are adjacent to or in reasonable proximity to the principal residence. *(moved from page 19 Jan 2013)*

- 5) Temporary Use Permit: To protect and promote the public health, safety, and general welfare of the Township residents. Truck campers, travel trailers, motor homes, and fifth wheelers, licensed or unlicensed, will require a temporary use permit, except those in total storage.
- A) A permit from the Newaygo County Health Department will be required prior to a Temporary Use Permit being issued.
 - B) Temporary Use Permits will be granted by the Township Zoning Administrator.
 - C) Length of Temporary Use Permits. Temporary Use Permits are issued for twenty-eight (28) days total, per calendar year. Any extensions must be authorized by the Zoning Administrator, who may authorize no more than two (2) twenty-eight (28) day extensions per calendar year.
 - D) Each unit shall display their permit in plain view. A completed informational card shall be on file with the Zoning Administrator containing the following information: The name and address of the owner of the unit and/or adult representative, plus the telephone number(s) wherein he/she can be reached at all times.
 - E) All units shall be self-contained as to potable water supply and storage of waste water.
 - F) The unit must be removed at the end of the permit period.
 - G) The Zoning Administrator may revoke a permit or extension thereof upon finding excessive noise, unsanitary conditions, or other nuisances are occurring on the premises subject to the permit.

Section 3.31 - Moving of Structures: The moving of a structure shall be considered the same as the erection of a new structure. All provisions relative to the erection of new structures shall be met.

Section 3.32 - Multiple Uses of Buildings: Where any part of any building is used for residential purposes and the remainder thereof is to be used for any non-residential purposes, the part used as a dwelling shall conform to all requirements for dwellings in that residential district. Land or buildings used for non-residential purposes shall be excluded in determining whether the requirements for the residential district are met.

Section 3.33 - Parking Vehicles: Parking or storage of commercial vehicles exceeding a rated capacity of 1 ton is prohibited in the Lake and Urban Residential districts.

Section 3.34 - Principal Use - One Dwelling Per Lot: One (1) principal use shall be made of a lot, except as otherwise permitted. A single family dwelling shall constitute a principal use.

Section 3.35 - Private Roads and Shared Driveways: See Section 17.16 for the provisions for private roads. Provisions for a shared driveway are as follows:

1) **Design Standards for a Shared Driveway:**

- A) Be constructed in a good and workmanlike manner and parallel to the centerline of an easement *of 20 feet** which is established by duly recorded *document in the Newaygo County Register of Deeds Office** and is not less than *twelve (12)** feet in width. Maintenance and repair shall be the responsibility of the property owners. *Each easement shall include no more than 1 shared driveway.**
- B) Must have compacted sand and gravel base of at least ten (10) inches of which four (4) inches must be road gravel or other suitable surfacing material.
- C) Be constructed as to sufficiently control storm water runoff and permit effective storm water drainage, such as by means of ditches constructed parallel to, and either side of, the drive, or by other effective means.
- D) Be constructed over adequate culverts where necessary.
- E) *There shall be only one (1) shared driveway per parcel.**

**Amended May, 2006, effective June 10, 2006*

Section 3.36 - Razing of Buildings: No building shall be razed until a permit has been issued by the Building Inspector. A cash bond or irrevocable letter of credit in the amount established by the Township Board may be set for each one thousand (1,000) square feet of the floor area or fraction thereof. The applicant must complete the razing within *twelve (12) changed Nov*

2016 months. The applicant shall comply with such reasonable conditions as to health and safety as the Building Inspector may require. Such conditions shall include but may not be limited to, the filling of holes and the proper disconnection of utilities.

Section 3.37 – Sanitary Sewer and Subsoil Drainage systems:

- 1) Where sanitary sewer is available:
 - A) At the discretion of the White Cloud/Sherman Utilities authority: No sewage disposal system will be permitted within five hundred (500) feet of any inland lake or stream within one half (1/2) mile of an existing municipal sewer system.
- 2) Where sanitary sewer service is not available:
 - A) Sanitary drainage systems are not permitted closer than one hundred (100) feet from any inland lake or stream.
 - B) All new developments, plats, or parks within one half (1/2) mile of an existing sanitary sewer system must provide all sanitary sewage facilities as required and approved by the White Cloud/Sherman Utilities authority to connect all sites, plats, and parks to the existing sanitary sewage system. This is the developer's financial responsibility and must be completed, or performance bond provided, prior to final approval of any new plot, plat, or park or development.
 - C) No septic or drainage system shall be nearer than forty (40) feet from any subsoil drainage system or footing drain that empties into, or within forty (40) feet of any inland lake or stream.
 - D) All septic systems, drainage systems, and sewage storage and delivery systems must meet all regulations as provided by law.

Section 3.38 - Swimming Pools: Swimming pools may be installed in any residential and agricultural district as an accessory use. All pools must meet the following conditions:

- 1) Pools may be installed in the side or rear yards of a lot in residential and agricultural districts. Motels and hotels may install pools in the front yard.
- 2) Pools shall not be erected closer than ten (10) feet from the rear and side property lines of the lot. In the case of a corner lot, the pool shall not be located closer than twenty (20) feet from any property line abutting a street.
- 3) Pools shall not occupy more than forty percent (40%) of the area of the yard. In computing such area, all other accessory structures shall be excluded.
- 4) A fence not less than four (4) feet in height shall be required. The support posts thereof shall be constructed in a permanent manner and in such a way as to last as long as the pool. Such posts shall be spaced at intervals of not more than eight (8) feet. The fence shall entirely enclose the pool.
- 5) The fence and every gate or other opening in the fence shall be designed and maintained to prevent entry of persons except as permitted by the owner.
- 6) If a public water system is available, only public water shall be used to supply water to such pool.
- 7) The inlet of the water supply system shall be above the overflow level of the pool and be fitted with an antisiphon device.

Section 3.39 - Temporary Buildings: Temporary accessory structures for uses incidental to construction work may be allowed by permit by the Building Inspector after issuance of a building permit for the proposed structure. The temporary permit shall specify the location of the temporary accessory structures and shall terminate six (6) months after the date of its issuance. The permit may be renewed if the Building Inspector finds that construction of the principal structure has been progressing in a reasonable manner. In any event, the temporary structure and all debris shall be removed within fifteen (15) days after the completion or abandonment of work.

Section 3-39A Temporary Dwellings: *a single-wide mobile home or recreational vehicle may be used as a temporary dwelling if certain requirements are met. The zoning administrator may approve such a use for a period not to exceed nine (9) months provided the following conditions are met:*

- 1). *Building permit has been issued for construction of a permanent single family dwelling that conforms to the regulations of this ordinance.*
- 2) *Construction of the permanent dwelling progress in a diligent manner*
- 3) *the temporary structure must contain at least seventy five (75) square feet for each occupant.*
- 4) *the temporary structure must be properly connected to water and sanitary facilities approved by the Newaygo County Health Dept.*

5) *the temporary structure must be removed within thirty (30) days of the issuance of occupancy permit for the permanent dwelling. (was part of section 3.3; moved nov 2015)*

Section 3.40 - Topsoil: Topsoil shall not be removed from the premises on which it originated except when it is in surplus amounts in connection with construction operations.

Section 3.41 - Vehicles - Storage Of: Storage or parking of inoperable or unlicensed vehicles (except operable farm equipment) in any district is prohibited unless contained within a junkyard or a fully-enclosed structure.

Section 3.42 - Walls and Fences: Retaining walls and fences not more than four (4) feet in height and not more than fifty percent (50%) in density are permitted in all districts; height restrictions may be exceeded for farm operations. Solid walls and fences not more than six (6) feet in height are permitted only in the side or rear yards in any district, provided that the yard does not abut a street right-of-way, (see Clear Vision Corners). Solid walls and fences greater than six (6) feet in height, or in a side or rear yard that does not meet the minimum regulations of the district in which it is located, may be permitted as a special use. See Article XVII.

Section 3.43 – Water Withdrawals: The drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for consumption or use, other than on the property where the water is originally located is only allowed in the C Commercial District if approved as a special use pursuant to subsection 14.02(25) of this Ordinance. This includes, but is not limited to, canning operations, bottled water operations or uses (including the drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for the same) and the transportation of water originating within Sherman Township to a place located outside of Sherman Township. Notwithstanding that such drawing, gathering, pumping, or removal of waters is allowed only within the C commercial District and in no other zoning districts under this Ordinance, the drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for farming and bona fide agricultural uses is allowed in any zoning district within this Ordinance where such farm or agricultural uses are permitted and the water is not transported out of its watershed of origin.

Section 3.44 Prohibition on Medical Marihuana Dispensaries

*No medical marihuana dispensary shall be commenced, conducted, operated, or utilized in any zoning district or on or from any property within the Township. Furthermore, no person shall frequent, patronize, or obtain or purchase any marihuana from any medical marihuana dispensary within the Township ** Sect 3.44 added Oct 2011

Section 3.45 Categories or Businesses or Uses not Expressly Designated; Unlawful Uses

Any use, use of land, activity, building, structure, or development activity not expressly allowed by this Ordinance is prohibited, unless the Zoning Administrator finds that the proposed use is 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.

Section 3.45 added Oct 2011

ARTICLE IV

NON-CONFORMING USES AND STRUCTURES

Section 4.01 – Purpose: It is the intent of this Article to permit the lawful use of land or a structure to continue exactly as the use or structure existed at the time on the enactment or any amendment of this Zoning Ordinance, even though the use or structure may not conform with the provisions of this Ordinance as enacted or amended. It is recognized that nonconforming uses and structures may adversely affect the value of nearby property and orderly development within the Township, or may otherwise be inconsistent with the purposes and intent of this Ordinance and with the public health, safety, and general welfare. Accordingly, the gradual removal and elimination of nonconforming uses and structures is desirable. This Article is intended to permit such uses and structures to continue, subject to restrictions, which are intended to minimize disharmony and incompatibility.

Section 4.02 – Nonconforming Uses: Definition: (See Section 2.62) A lawful use of a lot or parcel prior to the adoption of this Ordinance and any amendment thereto and which does not thereafter conform to the regulations of the district in which it is located. A use which is not licensed pursuant to law, or which violates any law or ordinance is not a lawful use.

- 1) Continuation of Use: The lawful use of any premises existing at the time of adoption of this Ordinance and any amendment there to may be continued even though such use does not conform to provisions hereof.
- 2) Enlargement: A nonconforming use shall not be enlarged, expanded, extended, or increased so as to occupy a greater area of land or structure than was occupied at the effective date of adoption or amendment of this Ordinance.
- 3) Relocation: A nonconforming use may be conducted only on that portion of the lot or parcel occupied by the use at the effective date of adoption or amendment of this Ordinance and shall not be moved or relocated, in whole or in part to any other portion of the lot or parcel, or to any other location unless the use would then conform with the requirements of this Ordinance.
- 4) Increase in Scope or Intensity: Except as otherwise permitted by this Article, a nonconforming use shall not be increased in scope or intensity by changing the hours of operation, the number of employees, the type or nature of activities conducted on the property, or any other aspect of the nonconforming use, so as to increase to any degree the impacts caused by the nonconforming use on any other property.
- 5) Anti-Backsliding: Any nonconforming use which is changed in whole or in part, for any reason to a conforming use, or to a more conforming use shall thereafter continue to be used for a conforming use or a more conforming and shall not revert to its prior nonconforming status or to a less-conforming use.

Section 4.03 – Nonconforming Structures: Definition: (See Section 2.61) A structure lawfully existing at the time of adoption of this Ordinance and any amendment thereto, and which does not thereafter conform to the regulations of the district in which it is located. A structure which is not licensed pursuant to law, or which violates any law or ordinance is not a lawful structure.

- 1) Remodeled: If a structure is nonconforming because of height, floor area, parking, or loading space provisions of this Ordinance, it may be extended, enlarged, altered, remodeled, or modernized to lessen the degree of nonconformity.

- 2) Expansion: A nonconforming structure shall not be enlarged, expanded, extended, or altered in a way which increases to any degree, the extent of any existing nonconformity or which causes the structure to be more nonconforming.
- 3) Alterations: Structural alterations to a nonconforming structure which do not increase the nonconformity of the structure may be permitted if the Building Inspector determines that there is a reasonable need for the requested change; that there will be no adverse impacts upon other nearby properties and that the change is otherwise consistent with the purposes and requirements of this Article.
No alteration shall be made unless the Building Inspector determines that such alteration will not substantially extend the life of any nonconforming structure. (was sec 4, combined Nov 2015)
- 4) Alterations: No alteration shall be made unless the Building Inspector determines that such alteration will not substantially extend the life of any nonconforming structure.
- 5) Relocation: A nonconforming structure shall not be moved or relocated in whole or in part, to any portion of the lot or parcel, or to any other location, unless the structure thereafter fully complies with all applicable site development regulations as provided by this Ordinance.
- 6) Anti-Backsliding: Any nonconforming structure which is changed in whole or in part for any reason so as to conform or more closely conform with all applicable site development regulations shall thereafter continue to conform or more closely conform with those regulations and shall not revert to its prior nonconforming status or to a less-conforming structure.

Section 4.04 – Repair and Maintenance of Nonconforming Uses and Structures:

- 1) On any building or structure devoted in whole or in part to any nonconforming use, repair, and maintenance work may be made provided that the cubic content of the building or structure as it existed at the time of adoption of this Ordinance is not increased.
 - A) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure or part thereof declared to be unsafe by the Township.
 - B) Nonconforming uses or structures shall not be re-established in their nonconforming condition in any zoning district after damage or destruction of the nonconforming use or structure if the estimated expense of reconstruction exceeds sixty percent (60%) of the appraised replacement cost of the use or the structure.
 - C) The estimated cost of reconstruction shall be determined by the Township Building Inspector and/or Township Assessor. Persons aggrieved by the determination of estimated replacement cost may appeal such determination to the Zoning Board of Appeals.

Section 4.05 – Discontinuance or Abandonment: Whenever a nonconforming use has been discontinued for a period of one-hundred eighty (180) days, such discontinuance shall be considered conclusive evidence of an intention to legally abandon the nonconforming use. At the end of the one-hundred eighty (180) day period, the nonconforming use shall not be re-established and any further use shall be in conformity with the provisions of this Ordinance.

Section 4.06 – Elimination of Nonconforming Use or Structure: The Township may acquire by purchase, condemnation, or other means, private property, or an interest in private property for the removal of any nonconforming use or structure. The cost or expense, or a portion thereof may be paid from general funds or assessed to a special district in accordance with applicable statutory authority.

Section 4.07 – Buildings Under Construction: Where a building and/or zoning permit has been issued prior to the time of adoption of this Ordinance or amendment a building may be completed.

Section 4.08 – Change of Nonconforming Use: Whenever a district is amended, any lawful use may be continued, notwithstanding the fact that such use becomes nonconforming, provided all other regulations governing the use are met. A nonconforming use may be changed to another nonconforming use as a special use if the Planning Commission finds that the new use would markedly decrease the degree of nonconformance and would enhance the desirability of adjacent conforming uses.

Section 4.09 – Nonconforming Lots of Record: Lots of record that are nonconforming because of a lack of required number of acres or minimum number of square feet shall be allowed provided that all provisions of Article III, Section 3.28 are met.

Section 4.10 – Restoration and Repairs:

- 1) Only repairs and maintenance work required to keep a nonconforming structure in sound condition may be made.
- 2) A structure damaged by the elements, public enemy, or other casualty may be restored or rebuilt or restored to its size prior to such damage and its use resumed if the cost thereof does not exceed sixty percent (60%) of its real value. A structure damaged in excess of sixty percent (60%) of its real value shall be reconstructed in accordance with the Ordinance. This shall be determined by the Building Inspector.
- 3) All repairs shall be commenced within one year from the time of the casualty and be diligently prosecuted to completion. A building permit shall first be obtained.
- 4) Buildings may be replaced on a nonconforming lot provided all health standards and conditions of the Ordinance are met and reconstruction commences within one year from the time of the casualty.

An existing mobile home may be replaced or upgraded provided that the replacement home meets all other requirements of Section 3.15 and 3.29.1.

ARTICLE V

SIGNS

Section 5.01 - Signs in All Districts Except Commercial and Resort Districts: The following signs will be permitted in all districts, except commercial in connection with a permitted land use:

- 1) One non-illuminated professional or nameplate sign not more than four (4) square feet in area.
- 2) A sign or signs not more than twelve (12) square feet for parking uses permitted in Article VI or which are deemed necessary to the public welfare by the Township Planning Commission.
- 3) A sign of not more than sixteen (16) square feet advertising the name and activities of a permitted non-residential use.
- 4) Customary farm and farm crop signs on active farms.
- 5) None of the permitted signs shall be erected in any roadway right of way, except for nameplate or mailbox signs, not more than one half (1/2) square foot (72 square inches) in area, may be placed anywhere within the front yard.

Section 5.02 - Signs in Commercial and Resort Districts and Institutional uses: No sign shall be permitted which is not accessory to the business conducted on the property. Such signs may only be erected, painted or placed on any exterior wall providing all the following requirements are met:

(underlined words added May 2011)

- 1) No business establishment shall have a total of more than three (3) signs facing upon any one street, provided the total sign area for all signs permitted shall not exceed twelve percent (12%) of the area of the face of the building to which they are attached or stand in front of.
- 2) All signs attached to a building shall be flat signs, parallel to the face of the building wall. No such shall extend farther than fifteen (15) inches from the face of the building upon which it is attached, provided however, that where a sign extends more than three (3) inches from the face of the wall, the bottom of said sign shall not be closer than eight (8) feet from the ground level below said sign. The maximum width of any single sign shall not exceed ninety percent (90%) of the width of the wall to which the sign is attached or related.
- 3) No sign shall be lighted by flashing or intermittent illumination. All light sources, except for diffused lighting with translucent signs, used for the illumination of signs, business building, or areas surrounding them shall be completely shielded from the view of vehicular traffic using any road abutting such business properties.
- 4) Gasoline service stations, automotive sales areas, and automotive repair shops may display in addition to the foregoing signs the following signs which are deemed customary and necessary to their respective business:
 - A) One free standing or pylon sign, provided that such sign shall not exceed fifty-four (54) square feet in area on a side.
 - B) Two temporary signs located inside the property line advertising special seasonal servicing, provided that each such sign does not exceed nine (9) square feet in area.

- C) Directional signs or lettering displayed over individual entrance doors or bays.
 - D) Customary lettering insignia which are a structural part of a gasoline pump.
 - E) A non-illuminated credit card sign.
- 5) Pennants and Banners: Temporary pennants or banners may be permitted for a period of not more than thirty (30) days without a permit, provided that they are kept in a state of good repair.

Section 5.03 - Billboards: Billboards are allowed in the Agricultural, Rural Residential, Commercial and Resort districts only. For the convenience of the traveling public and the preservation of values in community business areas, local service billboards are permitted on any road in the Agricultural or Commercial districts, subject to the following provisions:

- 1) The billboards must serve to identify a Newaygo County community or advertise a Newaygo County community business.
- 2) The billboard shall not exceed one hundred thirty (130) square feet in area.
- 3) The billboard shall not be nearer than three hundred (300) feet to any road intersection, any other billboard, or any residential building.
- 4) Lighted billboards may be permitted as a Commercial Special use.

Section 5.04 - Zoning Permit: All signs and billboards must meet the requirements and obtain a written permit from the Township Zoning Administrator stating the same.

ARTICLE VI

PARKING AND LOADING SPACES

Section 6.01 - Residential Off-Street Parking: Provision shall be made for at least one (1) garage space or one (1) off-street parking space for each new dwelling unit. Multiple dwelling structures shall provide one and one-half (1½) off-street parking spaces for each dwelling unit.

Section 6.02 - Non-Residential Off-Street Parking: Provisions shall be made for one (1) square foot of total parking area for each square foot of floor area for all new non-residential buildings or additions to such buildings in all districts. The conversion of an existing residence to another use shall be deemed as a new use which must meet all provisions in this article.

Section 6.03 - Mixed Occupancy and Uses Not Specified: In the case of mixed uses the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Collective provisions for off-street parking spaces shall not be less than the sum of the requirements for the various uses computed separately. Parking areas for churches, theaters or other uses in which the primary parking demand occurs out of normal work and business hours may be jointly used where adequate arrangements are made by the Township Planning Commission to insure that adequate space is available for each function.

Section 6.04 - Size and Access: Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles and shall be a minimum of nine (9) feet in width. There shall be adequate provisions for ingress and egress to all parking spaces. No access or egress to a parking area accessory to a commercial or industrial use shall utilize any residential street unless there is a side street with no residential lots facing upon it. All parking areas with more than three (3) spaces shall have such spaces legibly painted on the surface of the parking area.

Section 6.05 - Units of Measurement: For the purpose of the section "floor area" shall mean the gross floor area of all floors of a building or an addition to an existing building, excluding basements and those areas used exclusively for storage of goods or supplies. The total parking area excludes access drives within the parking area.

Section 6.06 - Location: Required off-street parking facilities shall be located on the same lot as the principal use in residential and agricultural districts. In commercial districts additional off-street parking is permitted as a principal use on a separate lot.

Section 6.07 - Community Parking: The provisions of this article may be met by financial participation in a municipal or community parking program designed to serve a larger area and approved by the County Planning Commission and Township Board.

Section 6.08 - Standards for Parking in Non-Residential Districts: Every parcel of land hereafter established as a parking area in a non-residential district shall be developed and maintained in accordance with the following requirements:

- 1) Parking areas shall be effectively screened on any side which abuts a residential district with a greenbelt as defined in this Ordinance. If owners of the adjacent residential properties agree, the screening may be a solid, uniformly painted fence or wall. No part of any parking area or access drive shall be closer than five (5) feet to any property line unless connected to another adjoining parking area by driveways. No access drive shall be less than twenty (20) feet from any residentially zoned lot or intersecting street right-of-way lines.

- 2) Every parking area shall be surfaced with asphalt or similar durable surface approved by the Newaygo County Road Commission, provided that where access to the parking area is from an unpaved roadway a durable dustless surface may be permitted. Lighting shall be arranged to reflect light away from any adjoining residential buildings or street. All drainage and surfacing plans shall be approved by the Newaygo County Road Commission.
- 3) Parking areas and their driveways, signs, lighting, and landscaping shall be reviewed and approved by the Township Planning Commission as a special use and shall require a Site Development Plan (Article XVIII), prior to issuance of a building permit to insure its adequacy in relation to traffic safety and protection of adjacent property.

Section 6.09 - Parking Areas in Residential Districts: Any person desiring to establish a parking area as an accessory use in a residential district other than for a one-family structure or a farm use shall be considered a special use and a Site Development Plan (Article XVIII) must be submitted to the Township Planning Commission for review and approval. Plans must show size, design, landscaping, curb cuts, and other features of the parking lot. Such parking areas may be authorized subject to the following conditions:

- 1) All parking area shall be landscaped, screened, surfaced, and drained as provided in Section 6.08 above.
- 2) All parking areas shall be used solely for the parking of passenger automobiles, and no commercial work, sales, or service of any kind shall be conducted thereon. No sign, other than entrance, exit, and other condition of use signs shall be maintained. See Section 5.01(2).
- 3) Each entrance to and exit from a parking area shall be at least twenty-five (25) feet distant from any adjacent property located in any residential district and not be wider than twenty (20) feet. The Planning Commission shall ascertain that the proposed parking area is safely related to traffic, street intersections, buildings, and pedestrian walkways and that the surrounding properties are fully protected from detrimental effects.
- 4) The Building Inspector shall issue a use permit upon receipt of the approved plan. The permit may be revoked at any time the above requirements and/or the requirements of the approved plan are not complied with.

Section 6.10 - Required Off-Street Loading and Unloading Space: In any district where any building to be erected which is to be occupied by any commercial or other designated special use shall provide, if needed, and maintain an off-street loading space on the same premises. This shall be part of the Site Development Plan (Article XVIII) submitted to the Township Planning Commission. Each loading space shall be at least twelve (12) feet in width, twenty-two (22) feet in length and have a clearing of fourteen (14) feet above grade. Such space may occupy all or any part of the required side or rear yard, but shall comply with provisions of Sections 6.08 and 6.09.

Section 6.11 - Parking Variation: Where it can be demonstrated that the parking requirements of this article would provide an excessive amount of parking area for the needs of a particular use, a plan with lesser area may be approved and permitted provided all the following conditions are met.

- 1) The maximum number of employees and visitors during any one eight (8) hour period can be demonstrated to be less than the parking space requirements of this Ordinance.
- 2) A written agreement to provide additional parking if an increase in employees or visitors shall occur at a future time shall be made part of the Site Development Plan.
- 3) An open landscaped area meeting the requirements of this section is shown reserved for future parking.

- 4) Said plan approval shall be valid for the stated use only. Any expansion or redesigning of said lot must go through the original site plan review process.

Section 6.12 - Building Additions: Whenever an addition is made to an existing building, the parking area shall be increased sufficiently to meet the requirements of this article.

Section 6.13 - Permits: No parking area may be constructed, enlarged or altered before a site development plan has been submitted and approved by the Township Planning Commission. See Article XVIII. Upon receipt of approval of the plan, the Building Inspector will issue a building permit. No parking area shall be occupied or used as a parking area prior to the issuance of an occupancy permit. Whenever the requirements of the Ordinance and/or site plan are not being met, use of the parking shall cease within sixty (60) days after the revocation of an occupancy permit.

ARTICLE VII

"D" DISTRICTS

Section 7.01 - Districts: To carry out the purpose of this Ordinance Sherman Township, exclusive of incorporated cities and/or villages, shall be divided into the following districts:

"A"	Agricultural District	Article VIII
"R-R"	Rural Residential District	Article IX
"S-R"	Suburban Residential District	Article X
"L-R"	Lake Residential District	Article XI
"U-R"	Urban Residential District	Article XII
"W"	Wilderness District	Article XIII
"C"	Commercial District	Article XIV
"E-O"	Environmental Overlay District	Article XV
"W-O"	White River Overlay District	Article XV
"R-D"	Resort District	Article XVI

Section 7.02 - Erection, Alteration, and Use of Buildings: Except as herein provided, no structure shall be erected or altered nor shall any building or premises be used for any purpose other than is permitted in the use, area or height permitted in the district within which it is located.

Section 7.03 - Provision for Official Zoning Map: For the purpose of this Ordinance, the zoning districts as provided herein are bound and defined as shown on a map entitled "Official Zoning Map of Sherman Township". The Official Zoning Map, with all explanatory matter thereon, is hereby made a part of this Ordinance.

Section 7.04 - Identification of the Official Zoning Map: The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested to by the Township Clerk and bear the following words: "this is to certify that this is the Official Zoning Map referred to in the Sherman Township Zoning Ordinance of 1996", together with the effective date of this Ordinance.

Section 7.05 - Authority of Official Zoning Map: Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Township Supervisor and open to public inspection, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the Township.

ARTICLE VIII

"A" AGRICULTURAL DISTRICT

Section 8.01 - Purpose: It is recognized that the public health and welfare of the citizens of Sherman Township, Newaygo County, are greatly dependent upon the sustenance and economic benefits provided by a viable agriculture industry. This district is intended to ensure that land areas within Sherman Township which are well suited for the production of food and fiber are retained for such production, by limiting the establishment of incompatible uses which would hinder **farm operations** and irretrievably deplete agricultural lands.

- 1) The "A" district acknowledges that agriculture is a specialized form of industry characterized by the production through biological and botanical process of salable **farm products** as a result of the combination of raw materials (soils, seeds, plants, water, and nutrients), manpower (farm labor and machinery), and energy (solar and power equipment).
- 2) Other specific purposes for which this district is established include:
 - A) To provide the basis for land tax assessments which reflect its existing agricultural nature and owing to these regulations, its limited use for other purposes.
 - B) To preserve woodlands and wetlands associated with farms which because of their natural physical features, are useful as groundwater retention areas and as a habitat of scenic value which contributes to the unique character of the agricultural district.
 - C) To provide for low density single family residential uses in a rural setting on lands within this district not particularly well suited for agriculture, as well as specialized rural uses requiring large tracts of land.

Section 8.02 - Permitted Uses: Only the following uses are permitted:

- 1) General and specialized farming, together with dwellings and structures accessory thereto.
- 2) Single family farm dwelling. An additional dwelling for farm or family use is permitted.
- 3) One non-farm single family detached dwelling.
- 4) ~~Roadside stands for sale of products grown on the premises. Deleted Jun 2010~~
- 4) ~~Roadside stands structures of 150 sq ft or less for the sale of agricultural products. del nov 2016~~
- 4) *Roadside stands/farm market for sale of products grown on premises as per GAAMP guidelines (added Nov 2016)*
- 5) *Mobile or Manufactured homes as new construction. See Sections 3.15 and 3.29.1. (added Dec 2012)*
(6: sale of support items deleted, covered by F below: April 2010)
- 6) Special Uses: The following activities may be permitted as a special use as granted by the Township Planning Commission. See Article XVIII, Site Development Plan and Article XVII, Special Uses.
 - A) Migrant housing, as regulated in Section 17.09.
 - B) Concentrated Livestock and/or Confined Feedlots or Poultry Operations, as regulated in Section 17.06.
 - C) Non-intensive outdoor recreational and entertainment facilities as regulated in Section 17.11.

- D) Kennels, as regulated in Section 17.08.
- E) Fisheries and fish hatcheries.
- F) Agriculture Service Establishment (*was Farm animals changed April 2010*)
See 2.07 and 17.14
- G) ~~Farm Markets structures exceeding 150 sq ft for the sale of agriculture products~~
~~(added June 2010)—deleted nov 2016~~

Section 8.03 - Height Regulations: No residential building shall exceed thirty-five (35) feet or two and one-half stories in height, whichever is less.

Section 8.04 - Area Regulations: No building or structure shall hereafter be erected, altered or enlarged unless the following yard and lot area requirements are provided:

- 1) Front Yard: There shall be a front yard of not less than fifty (50) feet.
- 2) Side Yard: There shall be two (2) side yards of not less than twenty-five (25) feet each.
- 3) Rear Yard: There shall be a rear yard of not less than thirty (30) feet.
- 4) Lot Area: There shall be a lot area of at least three (3) acres for any single family dwelling.
- 5) Lot Width: Every lot shall have a minimum width of two hundred (200) feet measured at the front setback line.
- 6) Lot Depth: If a lot is intended for principal use for a residence, the lot depth shall not exceed four (4) times the lot width as measured at the front setback line. The Township Planning Commission may permit a rear lot line with a depth greater than four (4) times the width at the front setback line if the conditions are met in the Ordinance.
 - A) The parcel is poorly suited for agricultural production due to soil conditions, slope, or presence of natural vegetation such as woodlots, brush lands, and wetlands. The Planning Commission, in making its determination, may consider such factors as, but not limited to, past and present uses of the lot, past productivity, and the difficulty in making the lot suitable for farming, including the presence of highly-erodible soils, as defined by the Soil Conservation Service.
 - B) There will be a minimal likelihood of conflicts arising between the residential use and the surrounding agricultural activities.
 - C) The precedent set by allowing the residential use in the circumstances under consideration will not adversely affect the long term plan and development policies of Sherman Township.

Section 8.05 - Minimum Dwelling requirements: Residential uses shall meet the minimum dwelling requirements set forth in Section 3.15, Dwelling Units. (*changed Dec 2012*)

ARTICLE IX

"R-R" RURAL RESIDENTIAL DISTRICT

Section 9.01 - Purpose: This district is primarily intended for one (1) family dwellings in a rural setting.

Section 9.02 - Uses Permitted: Only the following uses are permitted:

- 1) Single Family Dwelling
- 2) Any uses permitted in the "A" District, except confined livestock and poultry feeding operations.
- 3) Parks, playgrounds, community centers, and other public buildings owned, and operated by a governmental agency or a non-profit neighborhood group.
- 4) *Mobile or Manufactured* homes as new construction. See Sections 3.15 and 3.29.1.
(added Dec 2012)
- 5) Farm Animals

Section 9.03 - Height Regulations: No building shall exceed thirty-five (35) feet or two and one-half (2 ½) stories in height, whichever is less.

Section 9.04 - Area Regulations: The following area requirements are the minimum permitted in the "R-R" District:

- 1) Front Yard: There shall be a front yard of not less than fifty (50) feet.
- 2) Side Yard: There shall be a side yard of not less than twenty-five (25) feet on each side of the dwelling or accessory building; in addition, no non-residential structure shall be closer to a side lot line than the distance equal to its height.
- 3) Rear Yard: There shall be a rear yard of at least (30) feet.
- 4) Lot Area: There shall be a lot area of at least three (3) acres.
- 5) Lot Width: Every lot shall have a minimum width of two hundred (200) feet measured at the front setback line.
- 6) Length/Width Ratio: The length of any lot shall not be longer than four (4) times the width of the lot.
 - A) In the event a proposed building site encounters difficulties due to topographical circumstances or for aesthetic preferences, the Planning Commission may, upon viewing said parcel, grant a waiver of the foregoing lot depth, and allow a greater or lesser lot depth.

Section 9.05 - Minimum Dwelling Requirements: Residential uses shall meet the minimum dwelling requirements set forth in Section 3.15, Dwelling Units. (changed Dec 2012)

ARTICLE X

"S-R" SUBURBAN RESIDENTIAL DISTRICT

Section 10.01 - Purpose: The purpose of this district is to provide for a stable and sound residential environment of medium density lots that are served by public water and sewer systems.

Section 10.02 - Uses Permitted: Only the following uses are permitted in the "S-R" District:

- 1) Single Family Dwelling with a minimum width of twenty (20) feet for at least sixty-seven percent (67%) or its length.
- 2) Any existing mobile *or manufactured (added Dec 2012)* home may be replaced or up-graded provided that the replacement home meets all other requirements of Sections 3.15 and 3.29.1.
- 3) Parks, playgrounds, community centers, and other public buildings owned and operated by a governmental agency or a non-profit neighborhood group.
- 4) Farm animals.

Section 10.03 - Height Regulations: No building shall exceed thirty-five (35) feet or two and one-half stories in height, whichever is less.

Section 10.04 - Area Regulations: The following area requirements are the minimum permitted in the "S-R" District:

- 1) Front Yard: There shall be a front yard of at least thirty (30) feet provided.
- 2) Side Yard: There shall be a side yard of not less than fifteen (15) feet width on each side of any dwelling and ten (10) feet on each side of any accessory building, except on the street side of a corner lot where a thirty (30) foot side yard shall be provided and maintained.
- 3) Rear Yard: There shall be a rear yard of at least fifteen (15) feet.
- 4) Lot Area: Every single family lot shall be at least twenty-thousand (20,000) square feet in area.
- 5) Lot Width: The width of each lot must be at least one hundred twenty (120) feet.

Section 10.05 – Minimum Dwelling Requirements: Residential uses shall meet the minimum dwelling requirements set forth in Section 3.15, Dwelling Units.

ARTICLE XI

"L-R" LAKE RESIDENTIAL DISTRICT

Section 11.01 - Purpose: (Served by Public Sanitary Sewer System) The intent of the "L-R" District is to:

- 1) Encourage the proper development of land abutting lakes and waterways.
- 2) Avoid pollution.
- 3) Preserve lakes and waterways for the highest and best use of the land.

Section 11.02 - Uses Permitted: One (1) single family dwelling with minimum width of twenty (20) feet for at least 67 percent (67%) of its length is permitted.

- 1) An existing mobile or *manufactured (added Dec 2012)* home may be replaced or up-graded provided that the replacement home meets all other requirements of Sections 3.15 and 3.29.1.
- 2) Farm animals.

Section 11.03 - Height Regulations: No principal building shall exceed thirty-five (35) feet or two and one-half stories (2 ½) in height, whichever is less. Does not include height of basement. Accessory structures in side and rear yards shall not exceed twenty (20) feet in height at the peak.

Section 11.04 - Area Regulations for Lots Served by a Public Sanitary Sewer System: The minimum area requirements are:

- 1) Front Yard: There shall be a front yard of at least forty (40) feet provided.
- 2) Side Yard: There shall be two (2) side yards of at least ten (10) feet each.
- 3) Rear Yard: There shall be a rear yard of at least thirty (30) feet. Accessory garages and storage structures may be located to the rear of the principal building provided such structure is at least fifteen (15) feet from the street right-of-way on all conforming and newly created lots.
- 4) Lot Area: A single family dwelling with public sewer shall be located on a lot of not less than fifteen thousand (15,000) square feet. The average width of such a lot shall be one hundred (100) feet measured at the front setback line.
- 5) Lot Coverage: Lot coverage shall not exceed thirty percent (30%)
- 6) Special Conditions:
 - A) Water Setbacks: No principal structure shall be located closer than forty (40) feet to a waterfront property line or the high water line of any body of water, which ever is greater.
 - B) Waterfront Accessory Structures: Accessory structures located between the waterfront and the principal structure shall meet the side yard requirements for the principal structure. Docks, boathouses, boat landings, and similar structures in lakes or ponds shall not be longer than is required to reach a lower water mark of a depth of four and one half

(4½) feet and shall not exceed two hundred (200) square feet in area and eight (8) feet in height. Such structures located in rivers or streams shall not extend into the river or stream more than ten percent (10%) of the width of said river or stream measured at the point of location of such structure.

- C) No Recreational Vehicle will be allowed to be stored or utilized in the lot front of a waterfront lot, where there is a dwelling present on the property. (added April 2010)

Section 11.05 - Area Regulations for Lots Not Served by a Public Sanitary Sewer System:

- 1) Front Yard: There shall be a front yard of at least fifty (50) feet provided.
- 2) Side Yard: There shall be two (2) side yards of at least twenty (20) feet each.
- 3) Rear Yard: There shall be a rear yard of at least forty (40) feet. Accessory garages and storage structures may be located to the rear of the principal building provided such structure is at least twenty (20) feet from the street right-of-way on all conforming and newly created lots.
- 4) Lot Area: The dwelling shall not be located on a lot containing less than thirty-thousand (30,000) square feet. The minimum width of such a lot shall be not less than one hundred (100) feet measured at the front setback line.
- 5) Lot Coverage: Lot coverage shall not exceed thirty percent (30%).
- 6) Special Conditions:
 - A) Water Setbacks: No principal structure shall be located closer than fifty (50) feet to a waterfront property line or the high water line of any body of water, which ever is greater.
 - B) Waterfront Accessory Structures: Accessory structures located between the waterfront and principal structure shall meet the side yard requirements for the principal structure. Seasonal docks, boathouses, boar landings, and similar structures in lakes or ponds shall not be longer than is required to reach a low water mark of a depth of four and one half (4½) feet and shall not exceed two hundred (200) square feet in area and eight (8) feet in height. Such structures located in rivers or streams shall not extend into the river or stream more than ten percent (10%) of the width of the body of water measured at the point of location of such structure.
 - C) Sewage Disposal Systems:
 - i) No sewage disposal system shall be located closer than one hundred (100) feet to the high water mark on any body of water. Any portion of the sewage disposal system which discharged effluent to the soil shall be located in an area where the groundwater is at least four (4) feet beneath the ground surface at all times during the year.
 - ii) No sewage disposal system will be permitted within five hundred (500) feet of any inland lake or stream if the site is within a one half (1/2) mile radius of an existing sewer system.
 - D) No Recreational Vehicle will be allowed to be stored or utilized in the lot front of a waterfront lot, where there is a dwelling present on the property. (added April 2010)

Section 11.06 - Minimum Dwelling Requirements: Residential uses shall meet the minimum dwelling requirements as set forth in Section 3.15.

ARTICLE XII

"U-R" URBAN RESIDENTIAL DISTRICT

Section 12.01 - Purpose and Character: The purpose of this district is to allow for high density housing in areas that:

- 1) Are served by or are able to be served by, public water and sewer service.
- 2) Are adjacent to a main-line paved county road, capable of handling larger amounts of traffic.

Section 12.02 - Uses Allowed:

- 1) Mobile or *manufactured (added Dec 2012)* homes as new construction. See Sections 3.15 and 3.29.1.
- 2) Two-family and Multiple-Family Residences.
- 3) Mobile Home Parks as a Special Use.
- 4) Farm Animals.

Section 12.03 - Two-Family Residences:

- 1) Each two-family dwelling shall contain complete and separate facilities and restrictions as required in Section 3.15, Dwelling Units.
- 2) Each unit shall contain its own separate means of access.
- 3) Each unit shall be connected to a public sanitary sewer service and water supply if available, and shall be assessed individual user fees for such services.

Section 12.04 - Multiple-Family Residences:

- 1) No apartment building shall contain more than twelve (12) dwelling units.
- 2) Each unit shall comply with all requirements of Section 3.15, Dwelling Units, unless otherwise stated.
- 3) Each unit shall be connected to a public sanitary sewer service and water supply if available and shall be assessed appropriate user fees for such services.
- 4) Access: Every principal entry shall be visible from a public street. The entrance shall be located within fifty (50) feet from an off-street parking area.
- 5) Yard Requirements shall be the same as in the Suburban Residential District unless otherwise stated.
- 6) Group Buildings:
 - A) Groups of apartment building shall be in a single ownership and shall be located on one parcel of land.

- B) Where more than one building is located on a lot, no building shall be located in front of the main entrance wall of another building, unless separated by a common yard of at least one hundred (100) feet.
 - C) No building shall be located in back of another unless separated by a common yard of at least one hundred (100) feet.
 - D) Every group building shall have a green belt of at least thirty (30) feet unobstructed by any accessory structure.
 - E) No group building shall be located closer than a distance equal to its total height to any other building.
- 7) Area and Density:
- A) Area: Apartment building shall have a minimum floor area of four hundred eighty (480) square feet per dwelling unit.
 - B) Density: There shall be at least four thousand (4,000) square feet of lot area for each dwelling unit exclusive of streets.

Section 12.05 - Mobile Home Parks: Mobile home parks may be permitted as a special use within this district, provided that the Planning Commission finds all the following conditions are met:

- 1) All procedures for requesting a special use are followed, Article XVII, Special Uses; and as part of this procedure a site development is submitted to the Township Planning commission, Article XVIII, Site Development Plan.
- 2) All mobile home parks shall conform to the standards specified in Act 96 of the Public Acts of 1987, as amended; the Mobile Home Commission Rules, March, 1987, as amended; and the State's Department of Public Health, Bureau of Environmental and Occupational Health, Mobile Home Parks and Seasonal Mobile Home Parks Health Standards, May, 26, 1984, as amended.
- 3) Each mobile home park shall be located on a parcel of land not less than fifteen (15) acres in size.
- 4) Each dwelling unit within the mobile home park shall be connected to a common sanitary sewer system and water supply if available, and shall be assessed individual user fees for such services. If either or both of these common systems are private, there must be approval obtained from both the County Health Department and the Sherman Township Planning commission.
- 5) All public and private utilities shall be stored underground, except fuel tanks.
- 6) All mobile home parks shall provide and maintain, as a minimum, a fifty (50) foot landscaped setback from any street right-of-way line that borders the park and a thirty (30) foot landscaped buffer zone where the boundary is adjacent to neighboring properties. This landscaping shall consist of evergreen trees or shrubs of a minimum three (3) feet in height which are spaced so they provide a continuous screen within three (3) years. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.
- 7) The mobile home park shall be developed with sites averaging five thousand five hundred (5,500) square feet per mobile home unit. This five thousand five hundred (5,500) square feet may be reduced by

twenty percent (20%) provided that the individual site be equal to at least four thousand four hundred (4,400) square feet. For each square foot of land gained through a reduction of a site below five thousand five hundred (5,500) square feet, at least an equal amount of land must be dedicated as open space, but in no case shall the open land and distance requirements be less than that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.

- 8) All property in a mobile home park shall be graded so as to be well drained; and a means of conveying storm water away from structures and streets shall be provided.
- 9) All streets within the mobile home park shall be paved with bituminous, concrete or equivalent hard surface, or maintained with a dustless surface. Provision must be made for a forty (40) foot right-of-way for one way streets and a fifty (50) foot right-of-way for two-way streets with a minimum roadway of twenty (20) feet, exclusive of parking facilities.
- 10) Off-street parking shall be provided.
- 11) No mobile home in the mobile home park shall have less than four hundred eighty (480) square feet of floor area.
- 12) All mobile homes shall be skirted within thirty (30) days of placement within the mobile home park and must meet the standards of Act 96 of the Public Acts of 1987, as amended. Skirting must be installed within thirty (30) days of the date the mobile home is sited.
- 13) All mobile homes shall be anchored when installed in a mobile home park with only those systems which are approved by Act 96 of the Public Acts of 1987, as amended.
- 14) Buildings housing laundry facilities, offices, restroom or shower facilities, a pool or the sale of retail goods for the exclusive use of the residents of the park may be permitted as accessory uses.
- 15) The sale of new or used mobile homes is only permitted within the mobile home park on sites approved for permanent occupancy and accessory to the use of the park for dwelling purposes.

ARTICLE XIII

"W" WILDERNESS DISTRICT

Section 13.01 - Purpose: The purpose of this district is the preservation of the forest/wilderness in areas surrounded by and/or adjacent to the Manistee National Forest. This district specifically is intended to govern areas that were once part of the Forest or are currently part of the Forest and one day may revert to private lands. Low density single family dwellings situated on large parcels, that preserve the nature of the forest with limited intrusion of humans and the preservation of wildlife and flora is the primary use in this district.

Section 13.02 - Uses Permitted: The following uses are permitted in the "W" District:

- 1) Single Family Dwellings.
- 2) Parks, playgrounds, community centers owned and operated by governmental agency or a non-profit agency.
- 3) Agricultural activities that involve either current farming or the reclamation of abandoned farm lands.
- 4) Special Uses:
 - A) Private Campgrounds.
 - B) Outdoor Recreational and Entertainment Facilities
- 5) Mobile or *manufactured (added Dec 2012)* home as new construction. See Section 3.15 and 3.29.1.
- 6) Farm Animals.

Section 13.03 - Height Regulations: No building shall exceed thirty-five (35) feet or two and one-half stories in height, whichever is less.

Section 13.04 - Area Regulations: The following area requirements are the minimum permitted in the "W" District:

- 1) Front Yard: There shall be a front yard of no less than one hundred (100) feet.
- 2) Side Yard: There shall be two side yards of no less than fifty (50) feet each.
- 3) Rear Yard: There shall be a rear yard of no less than one hundred (100) feet.
- 4) Lot Area: No lot, parcel or plot shall be less than forty (40) acres.
- 5) Lot Ratio: The length of any lot shall not be longer than four (4) times the width of the lot.

Section 13.05 - Minimum Floor Area: The minimum floor area for all residential uses shall meet the minimum floor areas set forth in Section 3.15, Dwelling Units.

ARTICLE XIV

"C" COMMERCIAL DISTRICT

Section 14.01 - Purpose: This zoning district is intended to provide areas for business uses that serve the needs of the community.

Section 14.02 - Use Regulations: Land and/or buildings in the "C" Zoning District may be granted a special use permit for the following purposes only: See Section 17.04.

- 1) Automobile and other vehicle sales and services, new and used, including service maintenance.
- 2) Automobile service stations, auto accessory stores, and car washes.
- 3) Bakery goods store, candy store, ice cream shop.
- 4) Beauty or barber shop.
- 5) Bowling alley, including associated restaurant and/or tavern.
- 6) Decorators, painters, photographers shop.
- 7) Drugstores.
- 8) Feed, animal, and pet supply stores.
- 9) Furniture and dry goods, stores, variety stores.
- 10) Gift, florist, book, souvenir shops.
- 11) Grocery stores, convenience stores, package take-out stores.
- 12) Hardware, appliance, electrical supply, paint, and wallpaper stores.
- 13) Laundromat.
- 14) Lodge halls, private clubs, and veteran's facilities.
- 15) Motels, hotels, and cabins.
- 16) Nursery schools including day nurseries.
- 17) Offices: business and professional, banking.
- 18) Print shops.
- 19) Repair shops: tailors, shoes, small appliances, bicycles.
- 20) Restaurants and taverns.

- 21) Other similar retail business or service establishments which supply convenience commodities or perform services primarily for residents of the township, are permitted as a special use provided such uses are going to be similar to those listed above, and will not adversely affect the health, safety, or welfare of Sherman Township residents.
- 22) Accessory uses customarily incidental to the preceding permitted uses.
- 23) An existing mobile/*manufactured (added Dec 2012)* home may be replaced or up-graded provided that the replacement home meets all other requirements of Sections 3.15 and 3.29.1
- 24) Farm animals.
- 25) The drawing, gathering, pumping, or removal of surface water, spring water, or groundwater for consumption or use other than on the property where the water is originally located. This includes, but it not limited to, canning operations, bottled water operation(s), and uses (including any well, pipe or transport pipe, generator, well house, storage tank/facility, pumphouse, factory, or other structure or item related or associated thereto) and the transportation of water originating within Sherman Township to a place located outside of Sherman Township.

Section 14.03 - Height Regulations: No building shall exceed thirty-five (35) feet or two and one half (2 ½) stories, whichever is less.

Section 14.04 - Area Regulations: No building or structure shall be hereafter erected, altered or enlarged unless the following yard and lot areas are provided and maintained in connection with such alteration, construction or enlargement.

- 1) Lot Area: The minimum lot area of use in this zoning district shall be one (1) acre with a minimum width of one hundred fifty (150) feet at the front lot line.
- 2) Front Yard: There shall be a front yard of not less than twenty-five (25) feet, provided that there where established or adjacent lots vary from this minimum, a new building shall be constructed with a front yard of no less than the average front yards of those buildings located on either side of the proposed building, and provided that this provision shall not be interpreted to require a front yard of more than forty (40) feet nor less than fifteen (15) feet.
- 3) Side Yard: There shall be a side yard of not less than twenty-five (25) feet on each side of any building, except the street side of a corner lot or where the “C” Zoning district abuts any residential district, in which case a fifty (50) foot side yard shall be required and maintained.
- 4) Rear Yard: There shall be a rear yard of not less than twenty-five (25) feet.

Section 14.05 - Greenbelt: A greenbelt, as defined in the Ordinance shall be provided on each side and rear lot line which abuts a residential or agricultural district.

Section 14.06 - Parking Lots and Driveways: All parking lots and driveways shall be paved with bituminous or portland concrete or equivalent hard surface, or maintained with a dustless surface such as gravel. For additional requirements see Article VI, Off Street Parking and Loading Spaces.

Section 14.07 - Manner Conducted: All businesses shall be conducted in such a manner that no unreasonable noise, dust, vibration, light, noxious fumes or any other like nuisance shall exist to adversely affect adjoining properties.

Section 14.08 - Site Development Plan: A site development plan shall be submitted to the Planning Commission of the proposed use, before an application for a building permit may be made. A preliminary site plan may be used at the option of the Planning Commission. The site plan shall include in addition to those required in Article XVIII, Site Development Plan, the following:

- 1) The location of all streets and highways including grades and curves.
- 2) A sketch showing the relationship of the proposed use to the area within two thousand (2,000) feet.
- 3) Parking facilities and loading/delivers zones – must provide adequate facilities.
- 4) Surface drainage facilities.
- 5) Driveways to streets.
- 6) Location of all buildings and structures.
- 7) Location of all sewage disposal facilities, including a description of the method of disposing of sanitary waste and results of soil tests.
- 8) Location of the storage, use, and disposal areas of all hazardous substances.
- 9) List of all hazardous substances used, stores, or generated at the proposed facility, in accordance with procedures approved and designated by the Sherman Township Planning Commission. See Appendix A.
- 10) Site plans for facilities with hazardous substances shall be viewed by the Township Fire Authority prior to approval of the Planning Commission.

Section 14.09 - Storage of Hazardous Substances: The use, storage or generation of any and all hazardous substances, as defined below, shall be subject to said requirements.

- 1) Definition of Hazardous Substances: Hazardous substances shall include hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; hazardous materials as defined by the United States Department of Transportation; critical materials and polluting materials as defined by the Michigan Department of Natural Resources; and hazardous waste as defined by the Michigan Department of Natural Resources. See Appendix A
- 2) Specific State laws that must be adhered to are:
 - A) PIPP: Pollution Incident Prevention Plan (DNR), “Part 5” of the Water Resources Commission Act.
 - B) Michigan Hazardous Waste Management Act.

- ⊖) Michigan Rules for Storage of Flammable and Combustible Liquids; Michigan Fire Prevention Act known as the “Fireman’s Right to Know Law”; State Police Fire Marshal.
 - ⊖) Registration of Underground Tanks (DNR).
 - ⊖) Material Storage Permits (DNR).
 - ⊖) Small Quantity Hazardous Waste Management Regulations (DNR).
- 3) Applicability: These provisions apply to all businesses and facilities which use, store, or generate hazardous substances in quantities of one hundred (100) Kilograms (twenty-five (25) gallons, two hundred twenty (220) pounds, or one half (1/2) drum) or greater at one time. Hazardous substances include raw material, products, and wastes. See Appendix B.
- 4) Above Ground Storage:
- ⊖) Primary Containment of hazardous substances shall be product tight.
 - ⊖) Secondary containment of hazardous substances shall be provided for all facilities subject to a site plan review. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - ⊖) Outdoor storage of hazardous substances is prohibited except in product tight containers which are protected from weather, leakage, accidental damage, and vandalism. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance, including an allowance for the expected accumulation of precipitation. See Appendix C.
 - ⊖) At a minimum, State and Federal agency requirements for storage, leak detection, record keeping, spill prevention, emerging response, transport, and disposal shall be met.
- 5) Below Ground Storage:
- ⊖) At a minimum, regulations of the Michigan Department of Natural Resources, Michigan Fire Marshal Division for installation, inspection, maintenance of a leak detection system, inventory and record keeping, emergency response and closure must be met.
 - ⊖) All underground storage tanks which have been out of service for nine (9) months or longer shall be removed from the site before a building permit is issued. This requirement may be adjusted by the Township Fire Authority in situations where a clear timetable for the safe use of the underground tank is established.

APPENDIX A

The following types of substances are often hazardous and should be handled, stored, and disposed of with care. This list contains only the most common substances usually considered hazardous and is not meant to be a total listing, but rather a guide for both township officials and residents. If there is any question on the toxicity of a substance, the burden of proof that the substance is not hazardous lies with the applicant.

Solvents	Degreasers	Oil	Cleaning Fluids	Oil-based paints
Pesticides	Acids	Thinners	Plating solutions	Caustics
Lab chemicals	Metallic Compounds	Gasoline	Lead-acid batteries	Cyanides

Appendix B

**Hazardous Substances
Used, Stored, or Generated at the Business Facility**

Please list the chemicals, hazardous materials (including petroleum products), and hazardous wastes which you expect to have on hand. Quantities should reflect the maximum volumes on hand at any one time. Attach additional pages, if necessary to list all hazardous substances. Delineate storage locations on the site plan map or a separate attachment.

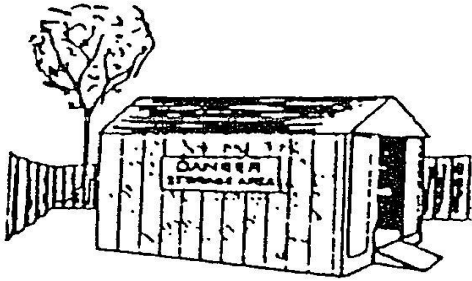
Common Name (Trade Name)	Chemical Name (Components)	Form	Maximum Quantity on hand at one time	Type of storage containers
1				
2				
3				
4				
5				
		Key: Liq. = Liquid P.Liq. = Pressurized Liquid S. = Solid G. = Gas P.G. = Pressurized Gas		Key: AGT = Aboveground Tank DM = Drum(s) UGT = Underground Tank CY = Cylinders CM = Metal Container CW = Wooden or Composition Container TP = Portable Tank O = Other (Specify)

Appendix C

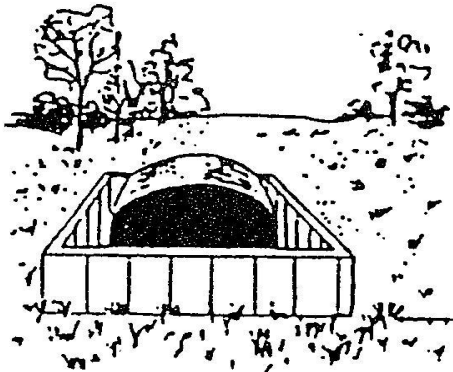
State of Michigan Requirements for Secondary Containment

Specific requirements for the diking of tanks are included in National Fire Protection Association (NFPA) Pamphlet No. 30 and the Michigan Rules for Storage and Transportation of Flammable and Combustible Liquids (effective in 1983). The Michigan Rules require diking for flammable liquid tanks greater than one thousand (1,000) gallons, and for corrosive liquid tanks with a capacity greater than ten thousand (10,000) gallons. Diking must also be provided for tanks with a lesser capacity when necessary to prevent liquid from endangering an important facility, adjoining property, surface or groundwater, or from reaching a waterway (Rule 30).

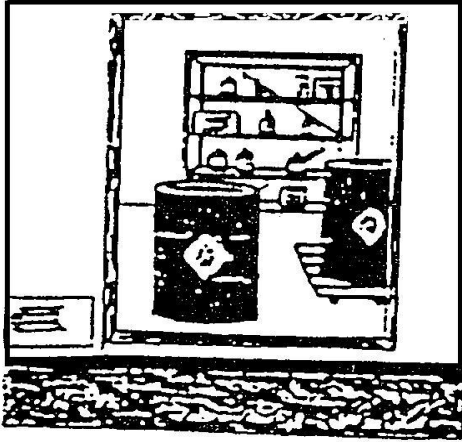
The Part 5 Rules of the Michigan Water Resources Commission Act (administered by the Michigan Department of Natural Resources and selected county health departments) require secondary containment of certain types of substances for environmental protection purposes. Secondary containment and the preparation of a Pollution Incident Prevention Plan are required for compliance. For information, contact MDNR Waste Management Division at (313) 344-4670. Examples of environmentally-sound secondary containment are shown below.



- Metal shed from discount store provides weather protection
- Shed firmly anchored to withstand high winds
- Concrete floor and curb in the shed trap leaks and spills
- Ramp provides easy access for dolly and drums



- Strong concrete base and berm sufficient to trap one hundred fifty percent (150%) of the tank contents, unless a lesser quantity is approved
- Rain water removal with a vacuum or pump
- Careful filling to avoid spills
- Setbacks from buildings to meet fire safety requirements



- Fireproof storage room with curb traps leaks and spills
- Accurate labels help keep usable hazardous materials separated from hazardous wastes
- Drum on pallet allows manager to easily check for leaks
- NOTE: A regular workroom may provide secondary containment if floor drains are blocked from possible spills of hazardous substances

THE ENVIRONMENTAL AND WHITE RIVER OVERLAY DISTRICTS

“E-O” THE ENVIRONMENTAL OVERLAY DISTRICT

Section 15.01 – Purpose: The purpose of this district is the preservation and enhancement of rivers streams, and lakes in Sherman Township and in particular their special environmental aspects such as flood plains and wetlands in the interest of present and future generations; the prevention of ecological damage and aesthetic damage which may result from overcrowding, overuse, or unwise and disorderly development.

Section 15.02 – Designated District and Boundaries: This overlay district covers all lands abutting within three hundred (300) feet of any river, stream, or lake within Sherman Township that is not already under the Lake Residential District or the White River Overlay District.

Section 15.03 – Uses: Uses permitted are:

- 1) Accepted normal agricultural activities, providing there is no undue erosion of banks by farm animals or pollution of the waters from animal wastes.
- 2) Docks: A single dock per lot is permitted when it does not exceed ten percent (10%) of the width of the stream. If located on the White River or a tributary, permanent docks may be erected only by permit issued by the Department of Natural Resources in accordance with the Inland Lakes and Streams Act of 1972, as amended.
- 3) One pumphouse, used for pumping water is permitted when it is setback at least ten (10) feet from the water’s edge and does not exceed nine (9) square feet in area and three (3) feet in height.
- 4) An existing mobile home may be replaced or up-graded provided that the replacement home meets all other requirements of Sections 3.15 and 3.29.1

Section 15.04 – Natural Vegetation Strip: To minimize erosion, stabilize riverbanks, protect water quality, and keep nutrients out of the water, a strip fifty (50) feet wide, bordering the water’s edge, shall be left undisturbed, or if disturbed shall be planted and maintained in trees and shrubs. An opening is allowed for access to the lake, river, or stream of not more than ten (10) feet. Trees and shrubs may be trimmed or pruned for a distance not to exceed ten (10) feet of any water frontage.

Section 15.05 – Earth Changing Activities: All earth changing activities, including dredging, cutting, filling, and grading within this District that involves the removal of ground cover, shall be in accordance with the requirements of the sedimentation control regulations of the Newaygo County Soil Conservation District. If the earth changing activity involves the filling of a flood plain, all regulations of the Michigan Department of Natural Resources must be met. In addition, no refuse, garbage, rubbish, or waste material shall be used as fill material. No approval by the Planning Commission shall be gained without assured compliance.

Section 15.06 – Minimum Dwelling Requirements: All height, yard, and area requirements of the regular zoning district in which the overlay district is located shall apply. In addition:

- 1) No dwelling may be erected within fifty (50) feet of the water’s edge, or within the established flood plain if this exceeds the fifty (50) foot requirement, or on land where a minimum of four (4) feet between the finished grade level and high water level cannot be met if this exceeds the fifty (50) foot requirement.
- 2) All requirements of Section 11.05 shall be met.

Section 15.07 – Considerations for Approval: The Zoning Administrator may grant permits for dwellings and accessory buildings if the above requirements and following considerations are met. Construction and or/use will:

- 1) Provide for the conservation of soil, banks, and adjoining uplands.
- 2) If abutting a river or stream, protect the natural flood water storage capacity of the river flood plain, so as to prevent flood damages and associated public relief expenditures created by improper construction of structures in a flood plain.
- 3) Does not damage fish, wildlife, and their habitat.

Section 15.08 – Relationship to Other Statutes Within This Ordinance: It is further declared that within the area affected by this District, the provisions that follow are:

- 1) The minimum necessary to insure protection and enhancement of the values of the water and shoreline area and the purposes stated above;
- 2) Is not intended to repeal, abrogate, or impair any existing covenants or deeds restrictions;
- 3) Not intended to permit actions prohibited by other statutes or ordinances;
- 4) To be interpreted, in the event of conflict with another statute or ordinance, in favor of the provision(s) which shall maximize the objectives of this District.

“W-O” WHITE RIVER “NATURAL RIVER” OVERLAY ZONE

Section 15.09 – Purpose and Authority: The zoning provisions of this overlay district are adopted under the authority of the Natural River Act, Public Act 231 of 1970 in furtherance of the public objectives embodied in the designation of the White River and its tributaries as a natural river as stated hereafter and in the White River Natural River Management Plan adopted by the National Resources Commission, and endorsed by the Sherman Township Board. The regulations of this overlay district are in addition to any of the underlying districts. Its intent is to insure the protection and enhancement of unique river resources, as well as to promote the public health, safety, and general welfare of Sherman Township and the state as a whole. The specific purposes are:

- 1) To protect and enhance the physical and biological value of the natural river in the interest of present and future generations;
- 2) To protect the economic value of this scenic resource from unwise and disorderly development which may adversely pollute, destroy, or otherwise impair its beneficial use and preservation;
- 3) To prevent ecological and aesthetic damage which may result from overcrowding and overuse, or unwise and disorderly development;
- 4) To permit reasonable and compatible uses of the land which complement the natural characteristics of the river and further the purposes of the Ordinance;

- 5) To limit the intensity of use, density of population, and type and amount of development in order to enhance the natural river's value, and thereby carefully guide the expenditure of funds for public improvements and services in an orderly fashion;
- 6) To conserve the river water and prevent further degradation of its quality, purity, clarity, and free-flowing condition;
- 7) To provide for the conservation of soil, of river bed and banks, and adjoining uplands;
- 8) To protect the natural floodwater storage capacity of the river flood plain and to prevent flood damages and associated public relief expenditures created by improper construction of structures in the flood plain;
- 9) To protect and enhance fish, wildlife, and their habitat;
- 10) To protect boating and recreational values and uses of the river;
- 11) To protect the historic values of the river and adjoining uplands;
- 12) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood damage.

Section 15.10 – Area Affected: This district includes every lot that abuts the White River and its tributaries, lying between the river's edge and a line, each point of which is five hundred (500) feet horizontal and perpendicular to the river's edge or a designated tributary, as shown on the Sherman Township Zoning Map, and is subject to the regulations of this district. This line shall be known as the river-front setback line. These regulations supersede all conflicting regulations of the underlying zoning districts to the extent of such a conflict and no further. A copy of the text and map covering this district shall be filed in the offices of the Sherman Township Clerk, the Newaygo County Equalization Department, with the State Tax Commission, and the Sherman Township Assessor.

Section 15.11 – Definitions Unique to This District:

- 1) **Bluff:** A bluff is the top of a steep bank rising from the river's edge on a lot.
- 2) **Earth Change:** Earth Change is defined in public act 347 of 1972, as amended, as a man-made change in the natural river cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the State, but does not apply to the plowing or tilling of soil for the purpose of crop production, and for which a valid permit is necessary from the local soil erosion and sedimentation control enforcement agency for any earth change within five hundred (500) feet of a lake or stream.
- 3) **Filtered View of the River:** Filtered View means the maintenance of establishment of weedy vegetation of sufficient density to screen development from the river, to provide for stream bank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. **This means no clear cutting.**
- 4) **River:** River, as used in this district, refers to the white River, a river designated as a natural river.
- 5) **River's Edge:** River's Edge is the ordinary high water mark as used in Public Act 346 of 1972, as amended, and defined as follows: The ordinary high water means 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 marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

- 6) **River Front Setback Line:** River Front Setback Line is the minimum required principal structure setback from the river's edge.
- 7) **Setback:** Setback is the minimum horizontal distance between a building setback line and the lot line or the river's edge as the case may be.
- 8) **Structure:** Same as Section 2.76 (*typo correct Dec 2012*), with the following exceptions: A temporary recreational vehicle or structure, including, but not limited to tents, camper trailers, and recreational vehicles are not considered a structure when used less than thirty (30) days per year and located landward of the natural vegetation strip; but are considered structure if used more than thirty (30) days per year.

Section 15.12 – General Provisions Unique to This District:

- 1) **Dredge and Fill Activities:** All dredge and fill activities and construction or permanent structures, including docks, lying below the ordinary high water mark of the river are subject to provisions of Public Act 346 of 1972, as amended.
- 2) **Earth Changing Activities:** All earth changes including dredging, cutting, filling, and grading within five hundred (500) feet of the river's edge shall be done in accordance with requirements of a permit issued by the local soil erosion and sedimentation control agency pursuant to Public Act 347 of 1972, as amended. Commercial mining and extraction of topsoil or subsurface sand, gravel, or minerals is not permitted within this overlay district. See Section 15.05 and 17.13.
- 3) **Natural Vegetation Strip:** A natural vegetation strip shall be maintained on each parcel between the river's edge and a line, to the river's edge. Within the natural vegetation strip, trees and shrubs may be selectively pruned or removed for harvest of merchantable timber, to achieve a filtered view of the river from the principal structure and for reasonable private access to the river. Said pruning and removal activities:
 - A) Shall insure that a live root system stays intact to provide for stream bank stabilization and erosion control.
 - B) Shall insure that any path to the river is no greater than five (5) feet wide, shall meander down to the river's edge in a manner which protects the soils and vegetation from erosion while also screening the principal structure and vehicles from a direct river view.

Dead, diseased, unsafe or fallen trees, and noxious plants and shrubs including poison ivy, poison sumac and poison oak, and other plants regarded as common nuisance in Section 2, Public Act 359 of 1941, as amended, may be removed. Planting of perennial native species in the natural vegetation strip is encouraged, especially where exposed soil and steep slopes exist, and in reforestation efforts.

- 4) **Removal of Logs and Debris from the River:** A river front owner may clear deadfall logs and other debris from the river to maintain a safe, clean, and free-flowing river when, after consultation with a Department of Natural Resource's fisheries biologist, removal is undertaken in a manner which will least disrupt fish and wildlife habitat, riverside vegetation, and limit sediment disruption of the river bottom.

- 5) **Use of Natural Building Materials:** It is encouraged that natural materials such as wood, stone, and natural muted colors indigenous to the local summertime vegetation and soils be used in the erection or alteration of the exterior of all structures, whether temporary or permanent, and especially in docks and riverbank stabilization structures.
- 6) **Use of Pesticides, Herbicides, and Fertilizers:** Because of the potentially severe adverse effects on river front vegetation, fish, wildlife, and water quality from improper use of even small amounts of pesticides, herbicides, and fertilizers, their use on land within the natural river area is strongly discouraged, except when utilized in accordance with the advice and supervision of qualified specialists.

Section 15.13 – Permitted Uses: Permitted uses are the same as in the Environmental Overlay District. See Section 15.03.

Section 15.14 – Height Restrictions: No structure, except public utility transmission and distribution lines regulated in accord with the Department of Natural Resources’ administrative rules entitled “Utilities and Publicly Provided Facilities in Natural River Areas”, in excess of a height of twenty-five (25) vertical feet, shall be permitted on any location within one thousand (1000) horizontal feet landward of the river’s edge, unless constructed in accord with the following schedule:

<u>Distance Landward of the Rivers Edge</u>	<u>Maximum Height of a Structure*</u>
1) Between 0-300 horizontal feet	25 vertical feet
2) Between 300-500 horizontal feet	25 vertical feet plus one additional foot of height for each 10 feet landward of the river’s edge

* - As measured from the average grade level of the surface area to be covered by the structure

Section 15.15 – Minimum Dwelling Requirement: All yard and area requirements of the underlying zoning district shall apply. In addition:

- 1) All dwellings must have a minimum one hundred fifty (150) foot river front setback line, or be located outside the established flood plain if this exceeds the one hundred fifty (150) requirement, or on land where a minimum of four feet between the finished grade level and high water mark can be met if this exceeds the one hundred fifty (150) foot requirement. The set back may be decreased five (5) feet for every one (1) foot of rise in the bank height above a minimum of seven (7) feet above the ordinary high water mark to a minimum of one hundred (100) feet.
- 2) Buildings and appurtenances shall be set back not less than twenty-five (25) feet from the top of a bluff on the non-cutting edge of a stream and not less than fifty (50) feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.
- 3) Height Restrictions: See Section 15.14.
- 4) All requirements of Section 11.05 and 11.06 shall be met.

Section 15.16 – Considerations for Approval: The Zoning Administrator may grant permits for dwellings and accessory buildings if the above requirements and the considerations stated in Section 15.09 are met.

ARTICLE XVI

“R-D” RESORT DISTRICT

Section 16.01 – Purpose: The purpose of this district is to provide for low to medium density tourist and/or out-of-doors recreational uses which are harmonious with existing adjacent uses and do not overburden the natural resources on each specific area in which it is located.

Section 16.02 - Permitted Uses: The following uses may be permitted as a special use by the Township Planning Commission. See Article XVIII, Site Development Plan, and Article XVII, Special Uses.

- 1) Motels, cabins and/or Bed & Breakfast Establishments.
- 2) Restaurants.
- 3) Convenience Stores, retail service establishments, laundromat, etc.
- 4) Golf Courses and Driving Ranges.
- 5) Specialty, Antique, or Craft Shops.
- 6) Museums.
- 7) Hunt and Gun Clubs/Shooting Ranges.
- 8) Campgrounds.

Section 16.03 - Additional Uses: Requiring Zoning Administrator approval only:

- 1) Service accessory or utility buildings, decks, gazebos, outdoor chapels, expansion up to fifty percent (50%) within a one (1) year period, and uses incidental to any of the foregoing uses when located on the same lot or parcel of land, when associated with an existing approved use.
- 2) No more than four (4) single residential dwellings for each lot or parcel as living units for family members or work related employees.
- 3) An existing mobile or *manufactured (added Dec 2012)* home may be replaced or up-graded provided that the replacement home meets all other requirements of Sections 3.15 and 3.29.1.

Section 16.04 - Height Regulations: No building shall exceed forty (40) feet or two and one-half (2 ½) stories in height, whichever is less.

Section 16.05 - Area Regulations: No building or structure in which lodging is offered shall hereafter be erected, altered or enlarged unless the following yard and lot areas are provided and maintained in connection with such alteration, construction or enlargement.

- 1) Lot Area: The minimum lot area of use in this zoning district shall be one (1) acre with a minimum width of *one hundred (100)** feet at the front lot line. *changed July 15th, 2012
- 2) Front Yard: There shall be a front yard of not less than twenty-five (25) feet.

- 3) Side Yard: There shall be a side yard of not less than ten (10) feet on each side of any lodging unit except the street side of a corner lot, in which case a twenty-five (25) foot side yard shall be required and maintained.
- 4) Rear Yard: There shall be a rear yard of not less than fifteen (15) feet.
- 5) Each single lodging unit must have a minimum of six hundred (600) square feet floor area.
- 6) Each single lodging unit must have five thousand (5,000) square feet minimum land area where sanitary sewer is available and ten thousand (10,000) square feet if hooked up to a septic system.
- 7) Accessory structures must meet the requirements of Section 3.02

Section 16.06 - Greenbelt: A greenbelt, as defined in the Ordinance shall be provided on each side and rear lot line which abuts a residential or agricultural district.

Section 16.07 - Parking Lots and Driveways: All parking lots and driveways shall be paved with bituminous or portland concrete or equivalent hard surface, or maintained with a dustless surface such as gravel. For additional requirements see Article VI, Off Street Parking and Loading Spaces. Provided, that only sufficient parking to accommodate the highest normal parking space need shall be required.

Section 16.08 - Manner Conducted: All activities shall be conducted in such a manner that no unreasonable noise, dust, vibration, light, noxious fumes, or any other like nuisance shall exist to adversely affect adjoining properties.

Section 16.09 - Storage of Hazardous Substances: The use, storage or generation of any and all hazardous substances shall be subject to the requirements of Section 14.09.

ARTICLE XVII

SPECIAL USES

Section 17.01 - Purpose: Certain land use activities, entitled "Special Uses" may be authorized in the various zoning districts, if it can be determined that adequate safeguards are provided to ensure the protection of the public health, safety and general welfare.

Section 17.02 - Site Development Plan: A site development plan is required for all special uses.

Section 17.03 - Conditions for All Special Uses: Any special use shall meet and continuously adhere to the approved site development plan conditions placed upon the use and the requirements for approval as well as the requirements of the district in which they are located.

Section 17.04 - Procedure for All Special Uses:

- 1) The applicant shall submit to the Planning Commission, through the Zoning Administrator, an application which shall include a required site plan and written evidence, and drawings showing that all the requirements for the applicable special use are met.
- 2) Upon receipt of such application, one notice that a request for a special land use has been received shall be published within a newspaper which circulates within the Township. In addition, a notice shall be sent by First Class U.S. Mail or personal delivery to: all property owners and to all occupants of all structures within two thousand (2,000) feet for all Commercial requests and three hundred (300) feet for Resort District and all other requests.
- 3) After receipt of proposed application for special use and site plan, it is recommended that the members of the Planning Commission visit said property or properties in question prior to the public hearing.
- 4) Such notice must be given no less than fifteen (15) days before the date the application will be considered. *(removed 10 day requirement April 2008)*
- 5) The notice shall include:
 - A) Description of the nature of the special use requested.
 - B) Identification of the property which is the subject of the special use request.
 - C) Statement of when and where the special use request will be considered.
 - D) Indication when and where written comments will be received concerning the request.
 - E) Indication that a public hearing on the special use request may be requested by any property owner or the occupant of any structure within two thousand (2,000) feet for all Commercial requests, or three hundred (300) feet for all other requests of the boundaries.
 - F) The property in question shall be conspicuously posted visible from the street.
- 6) Upon the initiative of the Planning Commission, the applicant, or the owner, or occupant of a structure within two thousand (2,000) feet for all Commercial requests or three hundred (300) feet for all other

requests of the boundary of the subject property, a public hearing shall be held before a decision is made.

- 7) Reasonable conditions may be required with the approval of a special use by the Planning Commission. The conditions may include, but are not limited to, those conditions in Section 19.05, Conditions of Approval.
- 8) Conditions imposed with respect to the approval of a special use shall be recorded in the record of the approval action, and shall remain unchanged except upon mutual consent of both the Planning Commission and the land owner, after a public hearing, notice of which is given in the same manner as the original hearing. The Planning Commission shall maintain a record of conditions which are changed.
- 9) Before granting a special use permit, in addition to finding that it meets all of the previously and subsequently stated requirements including all provisions of Article XVIII, the Planning Commission must find:
 - A) The use is suitably located in relation to adjoining uses, and long range plans for Sherman Township and the community needs which may be served by the proposed use.
 - B) The proposed use will not cause undue congestion, cause adverse environmental impact or in any way negatively affect the property or aesthetic values of township residents. The applicants for the permit may be required to undertake an environmental impact study and property value study and will have the burden of proof that the above condition exists.
 - C) The land will be adequately screened and the use will be at a sufficient distance from other property to protect adjoining property rights prior to start of operations.
 - D) That there will be no adverse effect upon public health, safety or general welfare, and that it will not impair the intent of this Ordinance.

Section 17.05 - Revocation of Permit: If a violation of any of the above conditions, regulations, or special conditions is found to exist following inspection, the Building Inspector and/or Zoning Administrator shall notify the owner of the special use that such a violation exists and that the permit will be revoked within 15 days of such notification. If said violation is not corrected within those 15 days, the Planning Commission shall revoke the permit.

Section 17.06 - Concentrated Livestock and/or Confined Feedlots or Poultry Operations: Agricultural District. Concentrated livestock or confined feedlots or poultry feeding operations may be permitted as a special use provided the Planning Commission determines that the following conditions are met:

- 1) Minimum lot size shall be eighty (80) acres.
- 2) The operation shall be set back a minimum of five hundred (500) feet from all property lines; one thousand (1,000) feet from any adjacent dwelling or residential district, public or semi-public place, church, school, nursing or convalescent home, and one thousand (1,000) feet from any standing body of water, flowing stream or designated wetland.
- 3) No feedlot shall be located within a flood plain.

- 4) No harm to adjacent property owners or to surface or ground waters shall result from direct runoff from the site upon which the proposed operation is located.
- 5) A specific plan including accepted animal waste management practices must be part of the Site Review Plan submitted to the Planning Commission. No animal waste shall be disposed of within the right-of-way of any public road or street.

Section 17.07 - Institutional and Public Uses: Any District. Institutional and public uses may be permitted as a special use if the Planning Commission finds the following conditions are met:

- 1) The proposed use will be harmonious with, and not harmful, injurious, or objectionable to, existing and projected future land uses in the area.
- 2) The proposed use is adequately served by necessary improvements, including, but not limited to, water, sewer, electricity, roads, drainage and parking.
- 3) The proposed use is in accordance with the development policies of Sherman Township.

Section 17.08 - Kennels: Agricultural District. Kennels may be permitted as a special use provided the Planning Commission determines all of the following conditions are met:

- 1) Minimum lot size shall be four (4) acres.
- 2) All animals must be housed no closer than two hundred (200) feet from any adjoining property line and at least five hundred (500) feet from any residential dwelling.
- 3) All animals shall be kept under sanitary conditions and in sanitary enclosures. The permit may be revoked if the premises become unsanitary or if objectionable noise or odors emanate from the premises.

Section 17.09 - Migrant Housing: Agricultural District. Seasonal dwellings for the housing of migrant farm workers and migrant employees of permitted food processing uses may be permitted as a special use by the Planning Commission, as an accessory use to that of agriculture, if the following conditions are met:

- 1) Seasonal dwellings shall be located upon the same parcel of land as the principal dwelling to which they are accessory, and said parcel shall be at least ten (10) acres in size.
- 2) Seasonal dwellings may be occupied only between the period of May 15th through November 15th. The remaining portion of the year said dwellings shall be locked so as to prevent entry by any unauthorized person.
- 3) Seasonal dwellings shall not be used for housing of persons not directly employed by the owner of the dwellings.
- 4) All rules, regulations, and standards of the State of Michigan governing the licensing and operations of migrant dwellings shall apply to Sherman Township where any dwelling is used to house one or more migrant worker(s).
- 5) Seasonal dwellings shall be located at least two hundred (200) feet from any public street, at least two hundred (200) feet from any other property line, and four hundred (400) feet from any dwelling of an adjacent property owner.

- 6) No seasonal dwelling shall have more than one (1) story or contain more dwelling units than are necessary to meet the needs of the owner of the premises. No seasonal dwelling shall be closer than thirty (30) feet from any other structure.
- 7) No dwelling shall be located between the front entry wall of another seasonal dwelling and a driveway or private roadway serving said dwelling, and no seasonal dwelling shall be closer than thirty (30) feet to any such drive or roadway.
- 8) All construction shall conform to state building codes and other ordinances that impose greater standards than state and federal regulations.
- 9) The applicant's site review plan shall signify the applicant's agreement to comply with said plan and all the conditions placed upon the use and requirements at all times. Applicant shall further agree to the following:
 - A) The premises and all seasonal dwellings shall be available for inspection by the Building Inspector.
 - B) All premises and dwellings shall be regularly maintained.
 - C) Any deficiencies arising from time to time shall be corrected by the owner within fifteen (15) days upon notification by the Township, State or Federal Agent, or official.
 - D) Any seasonal dwelling which is not occupied by migrant workers during five (5) consecutive years shall be removed by the owner within six (6) months of notice of the Township.
- 10) Permits: If the request for migrant housing is approved by the Planning Commission, it shall authorize the Building Inspector/Zoning Administrator to issue permits and a temporary occupancy permit for that period stated above. Said temporary permit shall state any special conditions of use imposed by the Planning Commission.
- 11) Revocation of Permit: If a violation of any of the above conditions, regulations or special conditions is found to exist, the Building Inspector shall notify the owner of the migrant housing and the Planning Commission of said violation; and that the temporary occupancy permit will be revoked within fifteen (15) days of such notification. If said violation is not corrected within fifteen (15) days, the Building Inspector shall revoke the permit. All migrant housing shall be vacated within fifteen (15) days of revocation.

Section 17.10 - Oil, Gas, or Other Drilling Activity: Agricultural District. Oil and gas wells, including drilling operations for any underground resources, though not controlled by this Ordinance, shall comply with the following conditions:

- 1) No truck parking or storage shall be located within two hundred (200) feet of any adjoining residence or within fifty (50) feet of adjoining property lines.
- 2) All truck operations shall be directed away from residential streets.
- 3) Site operations shall be at least five hundred (500) feet from any dwelling unit, church, school, public building, or public or semi-public place including parks and recreation areas.

- 4) The area shall be completely enclosed by a solid wall or fence of at least six (6) feet but no more than eight (8) feet in height, with no material stored within the fenced area visible above said fence.
- 5) No dumping of garbage, trash or any by-products shall be permitted.
- 6) The site shall not create a nuisance adversely affecting adjoining property owners.

Section 17.11 - Outdoor Recreational and Entertainment Facilities: Agricultural and Wilderness Districts. Outdoor recreational and entertainment facilities may be permitted if the Inspector and/or Zoning Administrator finds the following conditions are met:

- 1) The proposed use will be harmonious with, and not harmful, injurious or objectionable to, existing and projected future land uses in the area.
- 2) The proposed use is adequately served by necessary improvements, including, but not limited to, water, sewer, electricity, roads, drainage, and parking.
- 3) The proposed use is in accordance with the development policies of Sherman Township.

Section 17.12 - Private Campgrounds: Agricultural, Resort, and Wilderness Districts. Private campgrounds may be permitted as a special use if the Planning Commission finds that the following conditions have been met:

- 1) The campground shall be situated on a parcel of no less than ten (10) acres, with direct access to improved gravel or paved public road.
- 2) Each camp site shall contain a minimum of one thousand five hundred (1,500) square feet.
- 3) No vehicle, trailer, or tent shall be erected or placed within ten (10) feet of any road right-of-way.
- 4) A greenbelt of at least fifty (50) feet shall be maintained along all parameters of said campground.
- 5) Public restrooms, housed in all weather structures, containing adequate water outlet, toilet, waste container, and shower facilities shall be provided uniformly throughout the said campground at a ratio of not less than one such restroom for every twenty (20) sites.
- 6) All sanitary facilities shall be designed and constructed in strict conformance with all applicable Newaygo County health regulations.
- 7) The development of the entire parcel is subject to all applicable requirements of the Michigan Department of Natural Resources, and Camp Ground Act 368 of Public Acts of 1978 as amended.

Section 17.13 - Removal of Natural Resources for Commercial Purposes: All Districts. The removal of such natural resources as sand, gravel or mineral; or the alteration of land may be permitted if the Planning Commission finds the below procedures are followed and requirements met:

- ~~1) Procedure for Permit. No building permit shall be issued until an application for a temporary occupancy permit has been approved by the Planning Commission. The application shall contain the following:~~
- 1) *Procedure for permit. No mining permit shall be issued until a use permit has been approved by the planning commission. The application shall contain the following: (added Nov 2016)*

- A) A map of the land to be altered depicting all buildings, streets, drainage and natural features within three hundred (300) feet of the property involved.
- B) One (1) five (5) foot interval contour map of the proposed final elevations, the location of temporary structures, drives, parking areas, loading equipment, draining facilities, and the extent of the first year's operations.
- C) A written statement describing the equipment to be used, the process involved, an estimate of the time such removal will require, and a description of the proposed use of the premises after such removal.
- D) Supply to the Zoning Administrator written confirmation from the Newaygo County Soil Conservation that said operation as described above would be in compliance with sediment and soil erosion regulations.

2) Required Conditions:

- A) Final grades shall be harmonious with surrounding grades. No slope shall exceed an angle with the horizontal of more than thirty (30) degrees for the first twelve (12) feet along the horizontal, after which the slope shall not exceed an angle with the horizontal of more than forty-five (45) degrees. No topsoil shall be removed unless necessary for the ultimate proposed use of the land. All topsoil shall be properly redistributed upon termination of the mining activity. The Planning Commission may require the applicant to post a cash bond to insure that final grades, requirements of the site review plan, and other conditions placed upon the use will be met. Said bond will be forfeited if any provisions of this portion of the Ordinance are violated and the bond can then be used by the Township in its discretion for: the enforcement of this Ordinance; for putting the land in proper compliance; or any other purposes deemed proper by the Township.
- B) Topsoil shall not be mixed with other materials such as sand, etc to intentionally create a surplus. Topsoil shall not be stripped or otherwise removed from agricultural land. Black dirt used as a substitute for topsoil may be manufactured or created for purpose of sale or in restoring barren land by a Bona Fide licensed building contractor, excavator, landscaping or grading concern utilizing such materials as sand, clay, or organic spoil from excavating for ponds or ditches. See Sections 2.78, 3.05 and 3.40.
- C) Storm water shall be diverted to existing drainage systems in a manner approved by the Newaygo County Drain Commissioner and/or the Planning Commission.
- D) Creation, enlargement or any other alteration of any body of water shall be permitted only when the following conditions are met:
 - i) Engineering and geological studies are submitted indicating that such water will not become stagnated or polluted.
 - ii) Approval of the Michigan Department of Natural Resources, the Newaygo County Drain Commissioner and the Planning Commission Board.
- E) No removal, storage, structure, drive, or loading shall be closer than one hundred fifty (150) feet to any adjoining principle structure, one hundred (100) feet from any road right-of-way, or twelve (12) feet from any property line. All roads and unpaved areas shall be regularly maintained in a dust-free condition.

- F) Trucks shall travel only on roads approved by the Newaygo County Road Commission and the Township Planning Commission.
 - G) All structures, materials and equipment shall be removed within 6 months after the termination of the use.
 - H) All land shall be graded to final elevations with approved reseeded.
- 3) The Planning Commission shall use the following criteria in their determination of proper disposition of the application. Approval may be granted if it is found:
- A) The proposed use will prepare the premises for the ultimate use within a reasonable amount of time.
 - B) The proposed use will not adversely affect existing uses.
 - C) The proposed use shall meet all provisions of this section.
 - D) The proposed use shall not adversely affect the public health, safety and general welfare of Sherman Township.
- 4) ~~Authorization. Upon arrival of the approved application, the Building Inspector shall issue permits for a one year period. (deleted nov 2016)~~
Authorization. Upon arrival of approved applications, the Building Inspector shall issue a permit. (added nov 2016)
- ~~5) Renewal of Permits:~~
- ~~A) The Planning Commission may renew any permit if it finds at a public hearing that all conditions and plans have been met. (deleted nov 2016)~~
- 5) Renewal of Permits:
 The procedure for a new application shall be followed ***in any application for renewal*** if any new area is to be developed. ***(deleted nov 2016)***
- ~~C) An occupancy permit may be renewed for three (3) years or for the duration of an approved bond, whichever is lesser. (deleted nov 2016)~~
- 6) Revocation of Permits. The Building Inspector may revoke ~~an occupancy or use~~ a mining permit if operations do not conform to approved plans. In such case, operations must cease fourteen (14) days after notice by certified mail has been given to the violator, if the condition has not been corrected. A new application shall be required to reinstate a revoked permit. (changed nov 2016, was item 5)

Section 17.14 - Sale of Agricultural Support Items (Pesticides): Agricultural District. Sales of agricultural support items may be approved by the Planning Commission if the following conditions are met: All conditions of the Commercial District must be met, in particular, those relating to the storage of toxic materials.

Section 17.15 - Home Business Occupations: All Districts except Lake Residential. A Home Business Occupation may be permitted only as a special use and includes an occupation or profession carried out by a member of a family residing on the premises, which is clearly incidental and secondary to the principal residential use, and does not involve the alteration of the structure or change the character thereof. The above requirements as well as those listed below must be met to be considered a "Home Business Occupation".

- 1) No more than twenty-five percent (25%) of the gross floor area of the dwelling unit shall be utilized.
- 2) A Home Business Occupation may also be carried out in a separate un-attached structure “*or a part of a separate un-attached structure*”* not to exceed twenty-four hundred (2400) square feet. * added june 2017
- 3) Creates no nuisance or undue hazard due to heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases, or any other disturbances at any time resulting from such operation. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television off the premises, or causes fluctuations in line voltage off the premises.
- 4) There shall be no change in the exterior appearance of the dwelling or premises, or other evidence of the conduct of the "Home Business Occupation" other than one non-illuminated sign not greater than 16 square feet in size relating to such occupation.
- 5) Notice provisions regarding commercial property shall apply to uses under this section.
- 6) The outdoor storage of goods and/or materials of any kind is prohibited unless screened by a tightboard fences, landscaped buffer, landscaped berm, etc from view from neighboring property and road right of ways. If required, the type of screening shall be determined at the discretion of the Planning Commission.
- 7) Activities relating to the Home Business Occupation must be carried on only by residents of the dwelling, plus not more than one non-resident.
- 8) Provides adequate off-street parking, in addition to that required for the principal residence.
- 9) Any such Home Business Occupation is subject to inspection by the Zoning Administrator of the Township.
- 10) Any such Home Business Occupation is valid only for the approved applicant and is not automatically transferable upon transfer of said property.
- 11) The Planning Commission shall have the authority to order a limit on the hours of operation, impose conditions of operation or, if deemed necessary, order the complete termination of the activity.

Section 17.16 – Private Roads:

- 1) All existing Private Roads established prior to these in 2005, may be upgraded without meeting the existing standards, provided the road does not service additional parcels.
- 2) **Intent:** Sherman Township has determined that as large tracts of land are divided, sold, and developed, private access drives or roads are being created to provide access to these properties. The Township has determined that it is in the best interest of public health, safety, and welfare to regulate the construction, improvement, extension, and use of private access drives or private roads to assure that:
 - A) They are designed with appropriate width, surface, and grade to assure safe passage and maneuverability or private vehicles, police, fire, ambulance, and other public safety vehicles;
 - B) Such drives or roads are constructed of suitable materials to ensure minimal maintenance; and
 - C) Private drives or roads will be constructed so as to minimize soil erosion and prevent damage to lakes, streams, wetlands, and other significant natural features within the Township.

- 3) **Standards for Private Roads:** No private road construction permit shall be issued unless the plans, maintenance agreements, and proposed construction comply with the standards of this section.

A) **Minimum Standards for all Private Roads:**

- i) **Right of Way and Utility Easement:** All private roads shall have a minimum 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 utilities to be installed within the right-of-way.
- ii) **Cleared Road Width, Road Bed, and Materials:** 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 be at least twelve (12) feet wide and shall have a minimum sub-base of twelve (12) inches of sand and six (6) inches of finished compacted gravel (22A) on the top thereof.
- iii) **Cul-de-sac or Loop Road:** Any private road with terminates at a dead-end shall have a means for vehicle turn-around either by use of a cul-de-sac or a minimum radius of sixty (60) feet or a continuous loop private road system.
- iv) **Road Length:** No private road shall extend for a distance of more than one thousand three hundred twenty (1,320) 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.
- v) **Crown:** The road surface shall have a minimum crown of two-tenths (0.2) of one (1) foot from the centerline of the private road to the outside edge thereof.
- vi) **Shoulders:** A road shoulder comprised 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 (0.22) of a foot from the outside edge of the road surface to the toe of the slope.
- vii) **Paving:** Private roads shall be paved with appropriate hard-surfaces materials such as asphalt or concrete upon occurrence of either of the following events:
 - a) Within six (6) months after a building permit is issued for the fifth (5th) residence served by a private road.
 - b) At such time as the private road provides access to five (5) or more lots.
- viii) **Grade:** The maximum longitudinal road grade shall not exceed six percent (6%) provided that the Planning Commission may allow up to a ten percent (10%) grade if the Planning Commission finds that the increase in road grade will not adversely affect public safety and the design of the road system.
- ix) **Layout and Clear Vision:** The layout of all private roads and the intersections of private roads with other public or private roads shall be such that clear vision, safe turning, and travel in all directions at the posted speed limit are assured.

- x) **Intersections:** The minimum distance between intersections of public and/or private road right-of-way shall not be less than three hundred (300) feet measured along the right-of-way line thereof
- xi) **Drainage:** The private road shall be constructed with such storm water run-off, culverts, and drainage contours as is required by the Township to ensure adequate drainage run-off.
- xii) **Stream Crossings:** The method and construction technique to be used in the crossing of any natural streams, wetlands, or drainage course shall satisfy the requirements of the Drain Commissioner and any other agency having jurisdiction thereof.
- xiii) **Road Name and Property Addresses:** 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 of the private road (at the intersection with the public road) in letters at least three (3) inches high. Private roads serving two or more dwellings shall have a standard stop sign where the private road abuts the public road.
- xiv) **Indemnity:** The applicants/owners of the private road agree that the applying for and securing a permit to construct the private road that they shall indemnify and will hold the Township including the Township board, Planning Commission, consultants, and other such bodies representing the Township, harmless from any and all claims for personal injury and/or property damage arising out of the use of the road, or of the failure to properly construct, maintain, repair, and replace the private road.
- xv) **Maintenance Agreement:** The applicant(s) and/or owners of the proposed private road right-of-way or private road shall provide the Township with recordable private road maintenance, restrictive covenant agreement, or other documentation satisfactory to the Township between the owner(s) of the private road right-of-way and any other parties having any interest therein, 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 for. 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 furnished to the Township prior to issuance of the permit.
No construction permit shall be issued and no construction on a private road shall commence until the maintenance agreement is approved by the Township in consultation with the Township Attorney.
- xvi) **Construction Clean-up:** Upon completion of construction of the private road, the applicant/owner shall remove and properly dispose of any and all trees, shrubs, construction debris, and rubbish
- xvii) All private road development including, but not limited to, survey-design, construction staking, and inspection, shall be performed by a Registered Professional Engineer duly licensed to practice in the State of Michigan to insure compliance with the above listed minimum requirements. All expenses incurred will be the financial

responsibility of the developer/property owner(s). The developer/property owner(s) shall provide the Township with a complete set of design-plans and specifications for approval prior to commencing with construction.

- xviii) The Township may, at its option, select and employ a Registered Civil Engineer to review said plans and specifications to assure compliance with the provisions of this Ordinance. All costs incurred in the engineering review, will be the financial responsibility of the developer/property owner(s) and shall be paid before final approval is granted.

ARTICLE XVIII

SITE DEVELOPMENT PLAN

Section 18.01 – Purpose: It is the purpose of this section to achieve, through site plan review, safe and convenient traffic movement; harmonious relationships of buildings, structures, and uses; and the conservation of natural features and resources, and the preservation of adjacent property values.

The general and intensive use of the automobile requires careful study of the relationships between buildings, parking areas, streets, alleys, pedestrian walkways, traffic movements and obstructions caused by uses which generate or attract traffic or which require parking. To insure the safety, convenience and well being of the residents of Sherman Township and the public, the Planning Commission shall, prior to the rezoning of a parcel or the granting of a special use, review and consider a site development plan. A preliminary site plan may be used at the option of the Planning Commission.

Section 18.02 – Uses Requiring a Site Development Plan: The following buildings, structures, and uses require a site development plan:

- 1) All rezoning requests.
- 2) All special uses.
- 3) All commercial uses, including parking areas.
- 4) Lot Splits.
- 5) Mobile Home Parks.

Section 18.03 – Site Development Plan Scale Requirements: Each site plan submitted shall have the date, north arrow and scale. The scale shall not be less than 1" = 20' (one inch = twenty feet) for property under three (3) acres and at least 1" = 100' (one inch = one hundred feet) for property of three (3) acres or more.

Section 18.04 – Site Development Plan Information Requirements: Three (3) copies of each site plan submitted shall contain the following information, unless specifically waived by the Planning commission, in whole or in part:

- 1) Location, shape, area and dimensions of the property.
- 2) Surrounding property uses and zoning districts.
- 3) Public and private easements or right-of-ways located on the property or proposed for said property.
- 4) Driveways, off-street parking areas, loading spaces, and all other facilities to deal with traffic.
- 5) Locations and dimensions of all buildings, existing and proposed, number of floors and uses.
- 6) Pedestrian walkways, fences, and landscaping.
- 7) Existing and proposed water, sewer, and utility lines, including sites for solid waste pickup.
- 8) The method of storage of any and all toxic materials to be stored, sold, or used on the premises.

- 9) Location, height and orientation of all signs.
- 10) All major environmental features, including, but not limited to, wetlands, major stands of vegetation, steep slopes (over eighteen percent (18%) and rock outcroppings on and within one hundred (100) feet of said property.

Section 18.05 – Review Procedure: The Planning Commission shall study the site plan and shall approve or disapprove said plan. After review the Planning Commission, prior to approval, may request more studies to be made. These may include, but are not limited to, environmental impact studies, property valuation study or others as determined by the Planning Commission. If the site plan is rejected the reasons for disapproval shall be stated. Upon approval of a site plan, the three copies shall be signed and dated by the Chairman of the Planning Commission. One copy shall be kept on file by the Planning Commission, one by the Zoning Administrator, and one returned to the applicant. All findings of facts shall be made part of the public records of the meetings of the Planning Commission.

Section 18.06 – Standards for the Site Plan Review:

- 1) The Planning Commission shall determine that the site plan is consistent with this Ordinance and in accordance with the Township land use plan; more specifically:
 - A) That the movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe.
 - B) That the site will be equal to or an improvement in relation to property in the immediate vicinity and to the Township as a whole.
 - C) The proposed use will not cause undue congestion or cause an adverse environmental impact or in any way negatively effect the property or aesthetic values of township residents.
 - D) That the site plan will not overburden the Township's ability to provide public services, while at the same time adequately providing for sewage collection and treatment, storm drainage, and parking.
 - E) That the site plan is adequate to provide for the health, safety, and general welfare of persons and property on the site and in the neighboring community.
- 2) Reasonable conditions may be required with the approval of a site plan by the Planning Commission.
- 3) The conditions imposed with respect to the approval of the site plan shall be part of the record of approval action and shall remain unchanged except by mutual agreement of the Planning Commission and the land owner, after a public hearing, a notice of which was given in the same manner as the original hearing. The Planning Commission shall keep on record the conditions which are changed.

ARTICLE XIX

ZONING BOARD OF APPEALS

Section 19.01 – Purpose: In order that the objective of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretations of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there hereby has been established a Sherman Township Zoning Board of Appeals.

Section 19.02 – Board of Appeals:

- 1) The Board of Appeals shall consist of five (5) members to be selected and appointed by the Township Board. The first member of the Board of Appeals shall be a member of the Township Planning Commission. The remaining members shall be selected from the electors of the Township residing outside of incorporated cities or villages. The members selected shall be representative of the population distribution of the various interests present in the Township. One member may be a member of the Township Board. The Chairperson of the Board of Appeals is elected annually by the Board of Appeals. An elected officer of the Township shall not serve as Chairperson of the Board of Appeals. An employee or contractor of the Township Board shall not serve as a member or employee of the Zoning Board of Appeals.
- 2) The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to serve in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate may also be called to service as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member has the same voting rights as a regular member.* *Added section Dec 2009
- 3) The term of each member shall be for three (3) years. Members serving because of their membership on the Planning Commission or Township Board are limited to the time they are members of their respective offices, and the period stated in the resolution appointing them. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for non-expired terms shall be filled for the remainder of the term.
- 4) A member of the Board may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. A Board member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.*
*added section Dec 2009
- 5) The Zoning Board of Appeals shall be referred to in this document as the Board.
- 6) An aggrieved party shall file a written request to appeal the Zoning Administrators decision within thirty (30) days of such a decision.

Section 19.03 – Powers of the Board: The Board shall act upon all questions as they may arise in the administration of the Ordinance, including the interpretation of the Zoning Map. The Board may reserve or affirm, wholly or in part, or may modify any order, requirements, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all powers of the office from whom the appeal was taken. It may issue or direct the issuance of a permit. It shall also hear and decide all matters referred to it upon which it is required to pass under this Ordinance. Matters which the Board has jurisdiction over include:

- 1) Hear and decide upon appeals for the interpretation of the provisions of this Ordinance.

- 2) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision of such subject made by the Zoning Administrator.
- 3) Determination of a lot of record for a parcel of land not recorded on the effective date of this Ordinance, pursuant to Section 19.08.
- 4) Variances *authorized** (added "authorized" Aug 2013): The Board shall have the power to authorize, upon appeal, specific variances for such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations when all basic conditions listed below are satisfied.

It shall be found by The Board that the variance, if granted:

- A) After all requirements are met by the applicant and Zoning Administrator, it is recommended that the members of the Zoning Board of Appeals visit said property or properties in question prior to the public hearing.
 - B) Affects only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity, and which, if the ordinance were strictly enforced would cause unnecessary hardship or practical difficulty upon the applicant.
 - C) Will not be contrary to the public interest or to the spirit and intent of the Ordinance.
 - D) Shall not permit the establishment within a zoning district of any use which is not permitted by right within that district.
 - E) Will not cause any adverse effect to property in the vicinity, the zoning district or the Township.
 - F) Relates only to the property that is under control of the applicant.
 - G) Is not a self-created problem.
- 5) In addition, the following rules shall be applied in granting of variances:
- A) In granting a variance, the Board may specify, in writing to the applicant such conditions in connection with the granting that will, in its judgment, secure substantially, the objectives of the regulations or provisions to which such variance applies. The breach of any such condition shall automatically invalidate the permit granted.
 - B) No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

Section 19.04 – Variances Prohibited: ~~No Variance shall be authorized unless the Board finds from reasonable evidence that such variance will not be detrimental to the adjacent property and will not impair the intent and purposes of the Ordinance or the public health, safety and general welfare. In addition, the variance shall be denied if the board finds and records in detail "yes" to any of the following questions:~~

- ~~1) Can the property reasonably be used in a manner which is consistent with the requirements of the Ordinance?~~
- ~~2) Was the need created by the applicant?~~
- ~~3) Is the variance being requested because of personal or economic hardship rather than the unique physical situation of the particular property?~~ This 19.04 section deleted Aug 2013 New section 19-04 Added as follows:

Section 19.04: *No variance in the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board makes findings, based upon competent, material and substantial evidence on the whole record:*

- 1) *That the enforcement of the literal requirements of this Ordinance would involve practical difficulties or cause unnecessary hardship.*
- 2) *That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.*
- 3) *That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.*
- 4) *That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this Ordinance. Italics section 19-04 added Aug 2013*

Section 19.05 – Conditions of Approval: Reasonable conditions may be required with the approval of a variance by the Board and for special uses by the Planning Commission permitted under this Ordinance. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of the land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following conditions:

- 1) Be designed to protect natural resources, the health, safety and welfare, and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- 2) Be necessary to meet the intent and purpose of the Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 19.06 – Time Limit: The necessary permit shall be secured and authorized action begun within the time periods specified in the variance. The Board may, after a public hearing, extend such periods for good cause shown.

Section 19.07 – Termination of Variance: In the event the Board grants a variance, the individual or his successor in interest shall not use the property in question such that it would exceed those rights given by the Ordinance or the variance or fail to follow any conditions placed thereon by the Board. In event the use of the property exceeds any of the before mentioned items, the variance shall immediately terminate.

Section 19.08 – Determination of Lot of Record: Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject of a deed or land contract not recorded in the Office of the Register of deeds on the effective date of this Ordinance, the Board is authorized to conduct a hearing to determine whether such designation should be granted to such owner entitling him to have the parcel treated as a "Lot of Record" in accordance with Section 2.55. The Board shall grant said designation when it finds by a preponderance of the evidence that the instrument under which the premises are being purchased was executed prior to the effective date of the Ordinance. In making its determination, the Board is authorized to consider all matters it deems relevant, including, but not limited to, the Township tax roll, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses. Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other conditions set forth in this Ordinance.

Section 19.09 – Rules of Procedure:

- 1) The Board shall adopt rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Township Clerk.
- 2) The Board shall not conduct business unless a majority of the members of the Board are present.

- 3) Meeting of the Board shall be open to the public and shall be held at the call of the Chairperson and at such times as the Board shall determine.
- 4) The Board shall act by resolution. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which the Board is required to pass under this Ordinance, or to grant variances from the requirements of this Ordinance.
- 5) A member of the Board may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. A Board member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.*
*this section added Dec 2009
- 6) Records: Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of members and the final disposition of each case. The grounds of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing, as part of the Board's permanent records. Such minutes shall become as public record and as such be filed in the office of the Township Clerk. A copy of the decision shall be sent promptly to the applicant and Zoning Administrator.
- 7) Counsel: The Chairperson has the power to request legal counsel or any other technical expertise that may be required in a particular case with the consent of the Sherman Township Board.

Section 19.10 – Procedure for Scheduled Hearings:

- 1) When the application for hearing or appeal has been filed in the proper form and the required fee paid, the secretary of the Board shall immediately place the same on the calendar for hearing and serve the required notices.
- 2) Notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Township and shall be sent to the applicant not less than fifteen (15) days before the public hearing.* Changed Dec 2009
- ~~3) Copies of such notice shall be served upon the applicant, the Zoning Administrator or other administrative officers from which the appeal is taken.—Deleted Dec 2009~~
- ~~4) A like notice shall be sent at least ten (10) days prior to the hearing to all property owners and — to all occupants of all structures within two thousand (2,000) feet for all Commercial requests or three hundred (300) feet for all other requests of the boundary of the subject property. Institutional requests require three hundred (300) feet. This notice shall be hand delivered or sent by First Class U.S. mail, postage paid, and addressed to the last known address of such owners as determined by Township records.—Deleted Dec 2009~~
- 3) If the request involves a specific parcel, written notice stating the nature of the request and the time, date and place of the public hearing, shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question.* Section added Dec 2009

- 4) Representation: The party requesting the hearing, or any other interested person may appear in person or by agent or by attorney at the hearing considering the appeal or request.
- 5) Adjournments: Upon the date of the hearing of an appeal or request, the board may adjourn the hearing to a specified time and date in order to permit the obtaining of additional information or to cause further notices to be served. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of redemption of said hearing unless the Board decides otherwise.
- 6) Decisions:
 - A) Three (3) members shall constitute a quorum.
 - B) The secretary shall record the grounds for each decision. The board shall render its decision upon any matter within sixty (60) days after the matter is heard.
 - C) A copy of each decision shall be sent to the Zoning Administrator and the applicant. The original shall be sent to the Township Clerk. No building permit shall be issued by the Building Inspector until such written decisions is made.

ARTICLE XX

ADMINISTRATION AND ENFORCEMENT

Section 20.01 - Administration: The Sherman Township Board shall designate a Zoning Administrator and a Building Inspector to act as its officers to effect proper administration of the Ordinance, with terms of employment and compensation established in accordance with the provisions of Act 184, P.A. 1943.

This Ordinance shall be enforced by the Zoning Administrator, who shall perform the following:

- 1) Day to day administrative matters associated with the administration and enforcement of this Ordinance.
- 2) Review land use and building projects to ensure consistency with this Ordinance, provided however, in no case shall the Zoning Administrator approve any Zoning Permit where the proposed building, alteration, or use would be in violation of any provisions of this Ordinance, except under written order of the Township Zoning Board of Appeals after granting of a variance or interpretation, or by the Planning Commission in the granting of a Special Use.
- 3) The Zoning Administrator shall be authorized to inspect potential or obvious zoning violations.

Section 20.02 - Zoning Compliance Permit:

- 1) No person shall apply for a building permit without first obtaining a zoning compliance permit from the Zoning Administrator, to make sure all aspects of the proposed construction/alteration are in compliance with the provisions and regulations of this Ordinance.
- 2) No person shall commence construction or alteration of any agricultural building or any structure which does not require a building permit, without first obtaining a zoning compliance permit.
- 3) Application: Application for a zoning permit shall be filed by the owner or his/her agent and shall state the intended use of the structure and the land. Application shall be attached to two (2) permanent scale drawings showing the actual lines, angles and dimensions of the lot to be used and the size and location upon the lot of all existing and proposed structures. The application shall contain such other information with respect to the proposed structure, the lot and adjoining property as may be required by the Zoning Administrator. One (1) copy of the application, drawings and specifications shall be retained by the Township and the second copy shall be delivered back to the applicant upon issuance of a building permit.
- 4) All zoning permits expire one (1) year from their date of issuance.

Section 20.03 - Building Permit Requirement:

- 1) No person shall commence any construction of any building or structure or structural changes to any existing structures without first obtaining a building permit from the Building Inspector.
- 2) The Building Inspector shall not issue a building permit for the construction, remodeling or alteration of any structure until a zoning permit has been obtained for said project, and that said project will adhere to all legal requirements.
- 3) Application: The same drawings and specifications used for the zoning permit may be used for the building permit review, with any additional information as required by the Building Inspector. Building

and lot plans shall be signed by the person preparing them and by the owner of the property and/or building involved.

- 4) All building permits expire one (1) year from their date of issuance.
- 5) A copy of the building permit shall be sent to the Township Assessor.
- 6) All building permits shall be displayed within twenty-four (24) hours of the issuance by placing the permit, face out, in a conspicuous place on the premises facing the nearest street. The permit shall be displayed until all work is completed or the term for which the building permit is issued expires.

Section 20.04 - Certificate of Occupancy: No structure, new or altered shall be occupied until a temporary or certificate of occupancy is obtained from the Building Inspector stating that the premises and/or building complies with the provisions of approved plans and all Ordinances of Sherman Township and Newaygo County. Where any special use conditions are applicable, said conditions shall be stated in the Certificate of Occupancy. The Inspector shall keep the original, and send copies to the Township Clerk and Assessor.

Section 20.05 - Fees: 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 through the Township Zoning Administrator or the Township Clerk. 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 other request or application under this Ordinance and as to which fee is prescribed. No permit or certificate shall be issued by the Township until all applicable fees are paid.

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 in 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, costs 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. If insufficient monies are deposited by the applicant or property owner with the Township to cover the Township's reasonable costs and expenses (as mentioned above), the applicant or property owner shall fully reimburse the Township for all such reasonable costs and expenses at any and all times determined by the Township, whether during zoning review process or after the process has been completed. Any monies paid or deposited by an applicant which are not used or spent by the Township shall be refunded.

Section 20.06 - Compliance of Zoning, Building, and Occupancy Permit Requirements:

- 1) Inspections: The Building Inspector shall inspect all new construction and alterations at the time the footings are placed, at the time the walls are completed and at the time of completion of said project. The Inspector shall make such additional inspections he deems necessary to insure compliance with the provisions of the Township and to ascertain compliance with the requirements of this Ordinance.

- 2) Violations: The Zoning Administrator shall investigate any alleged violations of the Zoning Ordinance coming to his attention. If a violation is found to exist, he shall serve notice upon the person responsible for such a violation indicating the nature of the violation and stating the action necessary to correct said violation. If not corrected the Administrator shall serve notice upon the owner, notify the Governing Body and prosecute a complaint to terminate after violation. If violation continues, the Zoning Administrator shall request the Township Board to authorize legal consultation and court enforcement if necessary.
- 3) Records: The Building Inspector and Zoning Administrator shall keep records of all their respective inspections, applications, permits issued or other actions taken and fees paid. Permits issued must be accompanied with all special conditions/requirements involved. In cases other than those involving one-family houses, these records shall include all plans involved in the approval. These records shall be readily available to all officials of the Township and County.

Section 20.07 - Remedies and Enforcement: A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages, expenses, and remedies provided by the law. For purposes of this section, “subsequent offence” 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 or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

ARTICLE XXI

AMENDMENT, ADOPTION, AND RE-ZONING

Section 21.01 - Procedure: The Planning Commission, either on its own initiative, or upon petition by any interested person or public body, may schedule a public hearing for amendments to this Ordinance.

Section 21.02 - Fees: The Township Board shall establish, by resolution, fees for zoning amendment petitions. Such fee shall be paid in full at the time of application and no part of such fee shall be returnable to the petitioner. Fees shall not be required for amendments proposed or required by any government agency or body.

Section 21.03 - Information Required: If a change in the zoning district boundaries is sought, the petition must contain the signatures of the petitioners and title holders and any other person having legal interest in the land, and shall contain the following information:

- 1) A precise legal description of the boundaries of the property requested to be rezoned.
- 2) A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- 3) The change desired.
- 4) The reasons therefor.
- 5) The petitioner's interest in the property and if the petitioner is not the owner, the name and address of the owner.
- 6) A description of the proposed development and use of the property if the petition is granted.

Section 21.04 - Notices: The Planning Commission shall authorize the publication of the proposed amendment upon payment of the required fee. It shall also set up a time and place for at least one public hearing, and also the location where appropriate text and maps may be viewed. Notice of which shall be given as required by law.

- 1) Notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Township and shall be sent to the applicant not less than fifteen (15) days before the public hearing.* Changed Dec 2009
- 2) If the request involves a specific parcel, written notice stating the nature of the request and the time, date and place of the public hearing, shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question.* Section added Dec 2009

Section 21.05 - Finding of Fact Required: In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition. The facts to be considered by the Planning Commission shall include, but are not limited to, the following:

- 1) Whether or not the requested zoning change is justified by a change in conditions since the original Ordinance was adopted, by error in the original ordinance and whether the property can be reasonably used for uses permitted within the district where in it is located.

- 2) The precedents and possible effects of such precedents which might result from approval or denial of the petition.
- 3) The capability of the Township or other government agencies to provide any services, facilities or programs that might be required if the petition were approved.
- 4) Effect of approval of the petition on the condition and/or property values in the Township or in adjacent civil division.
- 5) Effect of the approval of the petition on the Sherman Township Land Use Plan.

All findings of facts shall be made part of the public records of the meetings of the Planning Commission.

Section 21.06 - Decision: The Planning Commission shall forward its recommendation and proposed amendment to the County Planning Commission and the Township Board with its recommendation for approval or denial within 30 days of the date of the hearing. Determination shall be as follows:

- 1) The Township Board shall set a date for the consideration of the proposed amendment upon receipt of the recommendation of the County Planning Commission or upon the expiration of thirty (30) days from the date the amendment was forwarded to such body.
- 2) If the Township Board shall deem any amendments advisable as to the proposed text, it shall refer the same to the Planning Commission for a report thereon within a time specified by the Township Board.

Section 21.07 - Adoption:

- 1) The Township Board may adopt the amendment at any regular meeting or at any special meeting called for that purpose.
- 2) The majority vote of the members of the Township Board shall be required to adopt any amendment.
- 3) Amendments shall be effective upon adoption by the Township Board, and proper notice of adoption as required by law, and shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption.

ARTICLE XXII

MISCELLANEOUS PROVISIONS

Section 22.01 - Severability: Should a court of competent jurisdiction ever find any provision, clause, or portion of this ordinance/ordinance amendment to be invalid, the balance or remainder of this ordinance/ordinance amendment shall remain valid and in full force and effect and shall be deemed “severable” from the portion, clause, or provision deemed to be invalid by the court.

Section 22.02 – Vested Rights: Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and they are hereby declared to be the subject to subsequent amendment, change, or modification as may be necessary for the preservation or protection of public health, safety, and welfare.

Section 22.03 - Effective Date: This Ordinance shall become effective immediately upon adoption by the Township Board.

Section 22.04 - Repeal of Prior Ordinance: The Sherman Township Zoning Ordinance, adopted in 1996 with Amendments, is hereby repealed effective coincident with the effective date of this Ordinance.

ARTICLE XXIII

OPEN SPACE PRESERVATION PUD – PUBLIC ACT NO. 177 OF 2001, AS AMENDED – MCLA 125.286H *et seq.*

Section 23.01 – Applicability: The provisions of this Article 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, all the requirements of this Article must be met and the land involved must be rezoned to a planned unit development (PUD) designation pursuant to this Article. Additionally, the provisions of Article 18 of this Ordinance shall also apply except to the extent that an express provision of this Article modifies the site development plan review and approval process. Act No. 177 requires that townships having populations of one thousand eight hundred (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; and satisfying certain criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than fifty percent (50%) that, as determined by the townships could otherwise be developed under existing ordinances, laws, and rules on entire land area. The purpose of this Article is to adopt open space preservation provisions consistent with the requirements of Act No. 177.

Section 23.02 – Definitions: For purposes of this article, the following definitions shall apply:

- 1) “Land zoned for residential development” shall mean any land located in the R-R Rural Residential, “S-R” Suburban Residential, “L-R” Lake Residential, Resort District, or “U-R” Urban Residential zoning districts pursuant to this Ordinance.
- 2) “Act No. 177” shall mean Public Act No. 177 or 2001, as amended, being MCLA 125.286h *et seq.*

Section 23.03 – Qualifying Conditions:

- 1) Land may be developed pursuant to the provisions of this Articles and Act No. 177 only if all of the following requirements and conditions are met:
 - A) The land is located in the “R-R” Rural Residential, “S-R” Suburban Residential, “L-R” Lake Residential, Resort District, or “U-R” Urban Residential zoning districts pursuant to this Zoning Ordinance.
 - B) The development of land pursuant to this Article 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 Article would also depend on such extension; and
 - C) The clustering or open space option provided pursuant to this Article shall not have previously been exercised with respect to the same land.
- 2) If all the preceding conditions and requirements listed in this Section 23.03 are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions and requirements of this Article.

Section 23.04 – 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 article.

Section 23.05 – Process: Only land located in the “R-R” Rural Residential, “S-R” Suburban Residential, “L-R” Lake Residential, or “Resort District U-R” Urban Residential zoning districts are eligible for the open space preservation option provided for in this Article and pursuant to Act No. 177. Should the owner of a property within the “R-R” Rural Residential, “S-R” Suburban Residential, “L-R” Lake Residential, or “U-R” Urban Residential zoning districts desire to take advantage of such option, the landowner must apply for approval pursuant to the procedural requirements of this Article, Article 16-A, and Article 18 of this Zoning Ordinance. 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 that such standards are expressly varied pursuant to this Article.

Section 23.06 – Application and Review Procedure:

- 1) The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this Article shall be those stated in Article 16-A and Article 18 of this Ordinance, an application for the development of land under the provisions of this Article shall also include the following:
 - A. **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 Article were not exercised. The Existing Zoning Plan may be conceptual in nature, but shall include at least the following information:
 - i) Date, north arrow and scale, which shall not be more than 1” = 100’ (one inch = one hundred feet), 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 Article.
 - ii) Location of all streets and driveways, existing and proposed.
 - iii) 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.
 - iv) 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.
 - v) 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.
 - vi) The location of all portions of the land that are unbuildable for residential purposes does to the presence of wetlands, severe slopes, flood plains, or other features prohibiting development for residential purposes.

- vii) 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 Article were not exercised.

B) **The Site Development Plan:** The applicant shall also submit a site plan for the open space or clustering option permitted by this Article, which, in addition to the site plan requirements specified by Article 16-A and Article 18 of this Ordinance, shall also include all of the following information:

- i) Date, North arrow and scale, which shall not be more than 1" = 100' (one inch = one hundred feet), and, in all cases, the scale shall be the same as that utilized for the Existing Zoning Plan.
- ii) 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.
- iii) 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.
- iv) 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 Article.
- v) The site development plan shall also illustrate the location and type of all proposed structures or improvements that are not dwellings.
- vi) 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.
- vii) 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.
- viii) 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.
- ix) The location of any proposed private street(s).
- x) 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.

C) **Developable Area:** When reviewing an application submitted under the terms of this Article, 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 Article 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 Article 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 dwellings which could have been developed under existing zoning if the Act No. 177 option were not exercised pursuant to this Article. 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 of determining otherwise developable land are under existing ordinances:

- i) Wetlands as defined by Michigan law.
- ii) Land located under a lake, pond, river, or stream.
- iii) Land with slopes exceeding fifteen percent (15%)
- iv) Land for which an on-site private septic system or private well could not be utilized under Newaygo County Health department regulations.
- v) Land located within a flood plain or which is subject to periodic flooding.

D) **The Restriction Document:** The applicant shall submit a copy of the proposed deed restrictions, restrictive covenants, conversation 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 Article and which would have the legal effect of preserving in perpetuity the open space required by this Article in an undeveloped state. Such document shall be reviewed and approved by the township prior to recording. At a minimum, the document(s) shall provide for all of the following:

- i) Indicate the proposed permitted use(s) of the undeveloped open space.
- ii) 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 improvements which are approved by the Planning Commission.
- iii) Require that the undeveloped open space be maintained by the parties who have an ownership interest in it.
- iv) Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning, harvesting of trees, and new plantings.

The approved restrictions 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.

- E) If the site development plan complies and all aspects of the proposed development satisfy all requirements of this Article, the Planning Commission and Township Board shall approve the PUD rezoning and site development plan for the proposed development.

Section 23.07 – Requirements for Open Space:

- 1) **Required Open Space:** Fifty percent (50%) of the land proposed for development under the provisions of this Article shall remain in a perpetually undeveloped state (i.e., “open space”) by means of a conversation 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.
- 2) **Land to be Set Aside as Open Space:** It shall be the Township Board (upon recommendation from the Planning Commission) that determines which fifty percent (50%) 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 following areas shall not constitute open space and may not be utilized to satisfy the open space requirement:
 - A) Any areas located within or under any public street easement or right-of-way.
 - B) Property located under or within any private street or road easement.
 - C) The land located under or the area within any easement for overhead utility lines.
 - D) The area within a platted lot of site condominium unit.
 - E) Off-street parking areas.
 - F) Detention and retention ponds.
 - G) Community drain fields.
 - H) The lands or area located underneath a lake, pond, river, or stream.
 - I) The area within a wetland as defined by Michigan law.
 - J) Lands with slopes exceeding fifteen percent (15%).
 - K) Areas subject to flooding or within a flood plain.
- 3) **Standards for Open Space:** The following standards shall apply to the open space required pursuant to this Article.
 - A) The open space shall not include a golf course.

- B) 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.
 - C) 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.
 - D) 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.
 - E) 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 fifty (50) feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help preserve or enhance the existing views.
 - F) A portion of open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
 - G) Open space shall be located so as to be reasonable accessible to the residents of the development. Sage and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
 - H) 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.
- 4) **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 23.08 – Individual Lots, Streets, and Other Improvements; Miscellaneous Provisions:

- 1) **Underlying Zoning District:** The development of land under this Article 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 Article where approved by the Township Board (upon recommendation from the Planning Commission).
- 2) **Uniform Lot Size:** Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonable practicable, unless otherwise approved by the Township Board (upon recommendation from the Planning Commission).
- 3) **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 from the Planning Commission). The location and area of the building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.

- 4) **Required Street Frontage:** Each lot shall have a minimum of at least sixty (60) feet of frontage on a lawful street, private road, or dedicated easement, measured at the street right-of-way line.
- 5) **Lot Width:** Each lot shall have a minimum width equal to no less than one half (1/2) 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, or creek shall have frontage on such a body of water equal to or greater than the minimum lot width requirement for the zoning district in which the land is located..
- 6) **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 init structures, if any, as described in subsection eight (8).
- 7) **Nondwelling Unit Structures:** Lots containing nondwelling structures such as a clubhouse and its related amenities shall be subject to all requirements of this Article 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 reasonable accommodate it.
- 8) **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:
 - A) 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 in 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.
 - B) The number calculated under subsection (A) 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.
- 9) **Perimeter Lots:** Notwithstanding any other provision of this Article, 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 reasonable consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
- 10) **Sidewalks:** The Township Board (upon recommendation from the Planning Commission) may require sidewalks.
- 11) **Grading:** Grading within the clustered development shall comply with the following requirements:
 - A) 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 the land

to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and shape thereof. Retaining walls may be required by the Township Board.

- B) 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 area is approved by the Township Board (upon recommendation from the Planning Commission).
 - C) 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.
- 12) **Private Streets:** Private streets within a clustered development shall conform to the private street requirements (and approval process) of this Ordinance. The Township Board (upon recommendation from the Planning Commission) may, however, modify the requirements for private streets and in doing so, shall consider the following criteria:
- A) The number and type of dwelling units served by the private street;
 - B) Traffic generation;
 - C) Existing topography and vegetation;
 - D) Security provisions;
 - E) Inter-relationship with the public street networks
 - F) Future installation of public utilities; and
 - G) Likelihood of public dedication of the roadway.
- 13) **Other Laws:** The development of land under this Articles 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.
- 14) **Access to or Frontage on Lakes and Streams:**
- A) An approved development pursuant to Act No. 177 and this Article 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.
 - B) No development approved pursuant to Act No. 177 and this Article 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.

- 15) **Newaygo 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 Article shall require the approval of the Newaygo County Drain Commissioner and shall be subject to the applicable rules and regulations of the same.

Section 23.09 – Amendments to an Approved PUD and Site Development Plan:

- 1) An approved PUD and site plan and any conditions imposed upon their approval shall not be changed except upon the mutual consent of the Township Board (upon recommendation by the Planning Commission) and the applicant, except as otherwise stated below with respect to minor changes.
- 2) A minor change may be approved by the Planning Commission. The following items shall be considered minor changes:
 - A) Reduction of the size of any building, building envelope, or sign.
 - B) Movement of buildings or signs by no more than ten (10) feet.
 - C) Plantings approved in the landscaping plan may be replaced by similar types of plantings.
 - D) Changes requested by the Township for safety reasons.
 - E) Changes which will preserve natural features of the land without changing the basic site layout.

Section 23.10 – 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 Article and approved site plan. 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 23.11 – Time Limitations for Development: Each development approved and permitted pursuant to this Article shall be under substantial construction within one (1) year after the date of approval of the site plan by the Planning Commission and Township Board. If this requirements 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 issues for the development of any pert 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 Article.

Section 23.12 – Savings Clause: If for any reason a court of competent jurisdiction determines that any portion of this Article is invalid, all other procedures and requirements of this article shall remain valid and applicable, including the site development plan approval requirement of Article XVIII of this Ordinance. If a court of competent jurisdiction determines that zone district(s) in addition to those listed in Section 23.02.1 of these Articles are considered “lands zoned for residential development”, the requirements of this Article shall apply to the lands in such additional zone district(s).

ARTICLE XXIV

PLANNED UNIT DEVELOPMENT DISTRICT

Section 24.01 – Intent: This Article provides enabling authority and standards for the submission, review, and approval of Planned Unit Developments. The intent of this Article is to authorize the consideration and use of Planned Unit Development regulations for the following purposes:

- 1) To encourage the use of land in accordance with its natural characteristics and adaptability.
- 2) To promote the conservation of natural features and resources.
- 3) To encourage innovation in land use planning and development.
- 4) To enhance housing and commercial development, traffic circulation, and recreational opportunities for the residents of the Township
- 5) To encourage and enhance the compatibility of uses on parcels and designs of structures on parcels with those on neighboring parcels.
- 6) To provide for the regulation of legitimate land uses which are not otherwise authorized within this Ordinance. However, the provisions of this Article are not intended to be used as a means of circumventing the other provisions of the Ordinance or the planning upon which it has been based. Rather, the provisions of this Article are intended to result in land use development, which is consistent with the underlying/prior zoning, and yet allow some modifications and departures from the requirements of the Ordinance, which are generally applicable. The standards provided herein are intended to provide a basis for the exercise of discretion by the Planning Commission and Township Board when asked to grant a modification or departure from this Ordinance.

Section 24.02 – Planned Unit Development District: All land for which a Planned Unit Development approval is requested must be zoned/rezoned as “Planned Unit Development District”.

This zoning district or property so rezoned may be referred to as “PUD”. The act of classifying (by amendment to the Zoning Map) of a parcel or piece of land as PUD does not itself constitute the granting of approval of a Planned Unit Development. The approval of a Planned Unit Development shall be signified by approval by both the Planning Commission and the Township Board for both the rezoning and approved site plan.

Section 24.03 – Permitted Uses: The uses permitted in the PUD district are based upon the uses permitted in the underlying/prior zoning classification of the property, as follows:

Underlying/Prior Zoning District	Permitted Uses Under Planned Unit Development
1) A, R-R, S-R, L-R, U-R, or R-D*	Any use permitted in the A, R-R, S-R, L-R, U-R, or R-D* zoning districts.
2) Commercial	Any use permitted in the C-Commercial District.

* - Key:

A = Agricultural District

R-R = Rural Residential District
S-R = Suburban Residential District
L-R = Lake Residential District
U-R = Urban Residential District
R-D = Resort District

Section 24.04 – Requirements for All Planned Unit Developments: All Planned Unit Developments shall comply with the following requirements.

- 1) The proposed development must be under single ownership or control, so that there is a single person or entity responsible for completion of the project in accordance with this Ordinance. The applicant shall submit to the Planning Commission proof of single ownership or control, such as agreements, contracts, covenants, or deed restrictions. The proof of single ownership shall indicate that the project will be completed as indicated on the finally approved plans, and that any portion of the development which is not to be maintained by the public or at public expense will be maintained and operated by the developer or his, her, or its successor.
- 2) In order for a parcel to be zoned for PUD, it must have a minimum size of two (2) contiguous acres.
- 3) All of the minimum standards set forth in this Ordinance, including setbacks, lot sizes, parking, lighting, loading, landscaping or screening, shall be applicable for uses that are proposed as part of a PUD. If a PUD includes a mixture of uses (residential and commercial, for example), the standards applicable shall be those of the use, which occupies the greater land area.
- 4) Modifications or departures from these standards may be approved by the Township Board, if recommended by the Planning Commission as part of the approval of the PUD.

Section 24.05 – Application Requirements: A person, firm, or corporation, which desire to obtain approval of a PUD, must first submit an application to the Planning Commission. The application must contain all of the following:

- 1) A cover letter signed by the applicant.
- 2) The legal description of the property and the acreage or size of the property.
- 3) A general description of the proposed development, including a timetable for the completion of the PUD and a list of requested departures from the Zoning Ordinance's minimum requirements.
- 4) A site plan, prepared by a registered engineer or architect, including the seal of the engineer or architect. The site plan must comply with the following requirements and include the following information:
 - A) A schedule which lists the total land areas to be devoted to each type of use; the total useable floor areas; density calculations; number and types of units; and building ground coverage.
 - B) Open space areas, indicating the proposed uses and improvements of such areas, and landscaping.
 - C) Elevation sketches which show building heights, exterior wall finishes or treatment; location of building entrances/exits; lighting elements and all other architectural features.
 - D) Landscaping planting plans.

- E) Be prepared on a scale of one inch equals 1"=100' (one hundred feet), or larger.
 - F) Indicate the date prepared, the north point, and the scale.
 - G) Indicate the dimensions of all lot and property lines, and show the relationship of the property to abutting properties.
 - H) Indicate the location of all existing and proposed drives and parking areas, and all utilities.
 - I) Indicate the location and right-of-way of all existing and proposed public right-of-way, private roads, and dedicated easements.
 - J) Indicate the name and address of the architect or engineer who prepared the site plan.
- 5) The application fee and other applicable fees (if any) established from the time to time by resolution of the Township Board for Planned Unit developments.

Section 24.06 – Review Procedures:

- 1) **Pre-application Conference:** An applicant may request an informal conference with the Planning Commission prior to the submission of an application for approval of the PUD. The purpose of the conference is to exchange information and provide guidance to the applicant that will assist in the preparation of the application materials. However, such conference is not to be taken as guaranteeing the approval of an application.
- 2) **Submission of PUD Plan:** An applicant shall submit ten (10) copies of a preliminary development plan, which consists of the materials described above, to the Planning Commission.
- 3) **Public Hearing:** After the preliminary development plan has been submitted to the Planning Commission, the Planning Commission shall schedule and hold a public hearing. Notice of the public hearing shall be given as required by the Township Zoning Act, as amended from time to time.
- 4) **Recommendation by Planning Commission:** The Planning Commission shall take action on the applicant's request within a reasonable time after the completed application has been submitted. The Planning Commission shall recommend approval, denial, or approval with conditions, of the request. The Planning Commission shall submit to the Township Board a written report of its decision. If the Planning Commission recommends approval or approval with conditions, the applicant shall submit to the Township Board six (6) copies of the development plan as recommended for approval by the Planning Commission.
- 5) **Action by Township Board:** A copy of the Planning Commission's report, a summary of comments received at the public hearing, minutes of all pertinent Planning Commission meetings, and all documents pertaining to the PUD shall be submitted to the Township Board. The Township Board shall take action on the applicant's request within a reasonable time of the Public Commissions' action. The Township Board may hold its own public hearing, and in such event, notice shall be given as required by the Township Zoning Act. The Township Board may approve, deny, or approve with conditions, the application.
- 6) **Effect of Approval:** Final approval of a Planned Unit Development application shall constitute an amendment to the Zoning Map. Thereafter, all improvements to or uses of any parcel or piece of land in

the PUD district shall only be made in accordance with the approved development plan and any conditions approved by the Township Board. The Township shall cause a notice to be recorded with the Newaygo County Register of Deeds, which contains the legal description of the project site and a declaration that all future uses of the property are to be conducted only in accordance with the approved development plan and the PUD.

Section 24.07 – Standards for Approval of a PUD: The review of an application for a PUD by the Planning Commission and the Township Board shall be based upon the following standards:

- 1) **Conformance with PUD Concept:** The overall design and all uses proposed in connection with a PUD shall be consistent with and promote the intent of this Ordinance and this Article, as well the Township Master Plan and also with specific project design standards hereinafter provided.
- 2) **Recognizable Benefits:** The PUD will result in recognizable and substantial benefits to the ultimate users of the project, and to the community in general.
- 3) **Compatibility with Adjacent Areas:** The proposed PUD shall be designed with appropriate regard to its relationship the uses and development of surrounding properties. Consideration shall be given to the following:
 - A) Building heights, setbacks, density, parking, traffic circulation, landscaping, views, greenbelts, and other layout features;
 - B) Type of materials used in construction of structures;
 - C) Proximity of traffic on site to structures on adjacent properties;
 - D) The location of outdoor storage, outdoor uses, and mechanical equipment in relation to adjacent properties;
 - E) The location and placement of storm sewers, drains, and/or retention of detention areas, and of existing bodies of water or water courses;
 - F) The hours of operation of all uses on the proposed site.
- 4) **Impact of Traffic:** The PUD shall be designed to minimize the adverse impacts of traffic generated by the proposed development. The following items shall be considered:
 - A) Traffic to be generated by the proposed development.
 - B) Adequacy of access to public right-of-ways
 - C) Proximity and relation to the development to intersections.
 - D) Adequacy of driver sight distances.
 - E) Location of and access to off-street parking.
 - F) Location of and adequacy of street parking lot lighting.
 - G) Required vehicular turning movements.

- H) Adequacy of provisions for pedestrians.
- 5) **Public Services:** The proposed PUD shall be serviced by municipal water, underground electricity distribution lines, underground gas lines, underground telephone lines, underground cable television lines, and sanitary sewer for all structures, if the same are reasonably available to the site.
- 6) **Economic, Property Values, and Environmental Impacts:** The proposed PUD shall not cause unreasonable negative impacts on surrounding properties, or on the environment.
- 7) **Compliance with All Applicable Regulations:** The proposed PUD shall be in compliance with all applicable federal, state, county, and township laws and regulations.
- 8) **Phasing:** If a project is proposed to be completed in phases, the project phases shall be designed so that each phase is complete in and of itself, in terms of services, facilities, and open spaces, and so that each phase contains all the features necessary to insure the protection of natural resources and the health, safety, and welfare of the users of the PUD and the occupants of the surrounding area.
- 9) **Access to or Frontage on Lakes and Streams:** The PUD and all lots thereof shall fully comply with the lake access, frontage, and other requirements contained in this Ordinance with regard to lakes, rivers, and streams if the property at issue has frontage on a lake, river, or stream. No PUD approval shall permit any more lots or dwellings to have access to, the use of, or frontage upon a lake, river, or stream than would otherwise be legally permissible under existing zoning.

Section 24.08 – Expiration of Approval: The approval of a PUD shall expire one (1) year after the final approval by the Township Board, unless substantial construction has commenced on the PUD site within one (1) year from the approval by the Township Board. The Township Board may grant an extension of the approval for good cause shown. If substantial construction has commenced within the applicable period and continues thereafter with due diligence, then the PUD approval shall continue.

Section 24.09 – Revision of Approved PUD Plans: The revision of approved PUD plans – to change the location and size of buildings, structures, streets, parking areas, or in the extent of structural coverage, floor space, setbacks, or in the amount of open space – is permitted, after adoption of the final PUD plan, in accordance with the following requirements:

- 1) **Minor Changes:** The Township’s Zoning Administrator can approve minor changes in the PUD plan, as long as the changes comply with all applicable requirements of the Zoning Ordinance and all other applicable federal, state, county, and township laws, ordinances, or regulations. Minor changes do not include the following
 - A) An increase in the scope or density of land used;
 - B) Land area, or building size;
 - C) The addition of uses which were not authorized in the original PUD approval;
 - D) The rearrangement of lots or building tracts;
 - E) Changes in the function or character of drives;
 - F) Changes in the concept of the development;

- G) And similar changes.
- 2) **Other Changes:** Any change in the PUD plan, which is not a minor change, may be approved by the Planning Commission, with or without additional public hearings, if it is required by engineering or other circumstances, which were not foreseen at the time of the final approval of the PUD plan. However, the following types of changes are of such magnitude that they require the submission of an amended PUD plan, and completion of the entire PUD approval process:
 - A) A change in use or character of the development.
 - B) An increase of more than ten percent (10%) in site coverage or overall floor space.
 - C) An increase in density of dwelling units.
 - D) A reduction of more than ten percent (10%) in approved open space.
 - E) A reduction in off-street parking and loading space.
 - F) A reduction of more than ten percent (10%) in setbacks from the boundary of the PUD.

Section 24.10 – Appeals/Variances: The Zoning board of appeals does not have jurisdiction to accept appeals or to grant variances with respect to an approved PUD.

Section 24.11 – Certain Large Scale Developments as Planned Developments:

- 1) In the A, R-R, S-R, L-R, U-R, and R-D* zoning 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 have been approved by the Township as a planned unit development (PUD)
- 2) 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 fifteen (15) or more lots, parcels of land, site condominium units or other interests in land, or any combination thereof, whether in whole or in part. For purposes of this section, “subdivision” also includes any lands, whether contiguous or not, if fifteen (15) or more lots, parcels of land, site condominium units or other units or interests are offered as part of a common promotional plan for sale of conveyance, or where the subdivision is being developed, or more than one developer, whether acting individually or in concert.
- 3) If parcels of land are contiguous or if they are known, 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 interest is fifteen (15) or more.
- 4) For purposes of this section, “contiguous” land means any additional land adjacent to or adjoining the subdivided land included in any previous subdivision.

- 5) 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, or site condominium units are created, or if any of such actions is proposed, within seven (7) years after the recording of the first land division or land split, then each parcel shall be considered a subdivision for the purposes of this section, and accordingly, each parcel shall be subject to planned unit development approval, if fifteen (15) or more lots, parcels of land, or site condominium units are created or developed from or out of such parcels or either of them.

* - Key:

A = Agricultural District

R-R = Rural Residential District

S-R = Suburban Residential District

L-R = Lake Residential District

U-R = Urban Residential District

R-D = Resort District

**VERBAL DESCRIPTION OF THE SHERMAN TOWNSHIP ZONING MAP
FOR SPECIFIED DISTRICTS**

Lake Residential (L-R) District

The following described areas shall be within the L-R District:

Crystal Lake:

All land within four hundred (400) feet of the waterfront from the east end of Crystal Lake at 24th ST, thence proceeding easterly and then southerly around the lake to Mayo DR. then all land between Mayo DR. and the lake proceeding westerly to Mayo Drive's intersection with Wisner AVE, then all land between Wisner and the lake proceeding northerly on Wisner to a point three hundred (300) feet north of Crystal Beach RD, then easterly to a point four hundred (400) feet from the lake shore, then northerly keeping four hundred (400) feet from the lake shore to 24th ST, then east on 24th ST to the point of beginning.

Long (Ryerson) Lake:

All land within three hundred (300) feet of the waters edge beginning at the southwest end of Camp Echo (tax parcel, #62-14-34-200-001) to the northern most edge and Chippewa Trail, then all land between the waters edge and Chippewa Trail to Cree RD, to Delaware RD, to the end of Erie RD, then all land within three hundred (300) feet of the waters edge from the end of Erie RD proceeding southerly and westerly to Park ST, then all land between the waters edge and Park ST to Beech ST, then west to the end of Beech ST, then north to Elm ST, West to the south end of Sherman AVE, beginning at the corner of Elm and Sherman all land two hundred thirty (230) feet west of the centerline of Sherman AVE proceeding north to 40th ST, then all land between 40th ST, west to Elm ST, then north on Elm ST to Oak ST, then east on Oak ST to Sherman AVE, then north on Sherman AVE to its end in Section 28, then all land within three hundred (300) feet of the waters edge from the end of Sherman AVE proceeding north and east to the westerly end of Camp Echo.

Robinson Lake:

From the corner of Ransom and Park Lane south on Ransom to Ferry St, then proceeding southerly and westerly from Ferry ST all property within 700 feet of the waters edge to the north-south line two thousand six hundred thirty (2630) feet east to Section 11. Then commencing at the intersection of Bingham and Woodland DR. (south end) follow Woodland DR. north and then west to its north junction with Bingham AVE, then along Bingham to Echo, east to Goode DR. then south on Goode DR. to Park Lane, then east on Park Lane to Ransom DR. (point of beginning).

Resort (R-D) District

The Resort (R-D) District of Sherman Township

The following described lands shall be in the (R-D) district:

- 1) The SW 1/4 of Section 10.
- 2) 19.79 acres in the NE 1/4 of SE 1/4 of Section 9 Parcel # (62-14-09-400-007).
- 3) That part of the following parcel lying E of Bingham Ave. Parcel in SE 1/4 NE 1/4 280.5 feet N and S by 330 feet E and W, Section 9 Parcel # (62-14-09-200-017).

- 4) Lots 28, 29, 30, 31, and 32 of the Shady Beach Subdivision of Section 10.
- 5) Lot 19 of the Supervisors Plat No. One Section 10.
- 6) The NE 1/4 and the S 1/2 of the NW 1/4 and the NE 1/4 of the SW 1/4 of Section 35.

Commercial (C) District

Lands encompassing the area beginning at a point on Echo Drive one hundred sixty-five (165) Feet west of McClelland AVE. proceeding nine hundred seventy-five (975) feet west on Echo Drive then three hundred fifty-five (355) feet north, then nine hundred seventy-five (975) feet east and then three hundred fifty-five (355) feet south to the point of beginning at Echo Drive.

Parcel # 62-14-400-008 address 2255 S Baldwin Ave.

Parcel # 62-14-32-400-007 West corner of Baldwin & 48th Street.

Rural Residential (R-R) District

For additional Rural Residential Districts, See Map.

A strip three hundred thirty (330) feet in depth east of Luce Avenue beginning at the road right-of-way of 48th Street extending to 8th Street road right-of-way.