

## Chapter 25 ZONING ORDINANCE<sup>1</sup>

### **ARTICLE 1. TITLE, PURPOSE AND LEGAL CLAUSES**

#### **Sec. 1.01. Title.**

This Ordinance shall be known and may be cited as "The Charter Township of Highland Zoning Ordinance," or the "Zoning Ordinance."

#### **Sec. 1.02. Purposes.**

The Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, establishes the right to adopt comprehensive zoning regulation, and empowers the Township to enact a zoning ordinance and provides for its administration, enforcement and amendment:

- A. The Township deems it necessary to enact said regulations for the purpose of promoting and protecting the health, safety, comfort, convenience and general welfare of its residents;
- B. The Township has prepared and adopted a Master Plan designed to guide growth in a logical and orderly fashion; to lessen congestion on the public streets; to protect and preserve its natural resources, and to ensure a well-balanced community considering its present and potential physical, economic, cultural and environmental assets;
- C. The Township has identified districts and prepared regulations pertaining to such districts in accordance with the Highland Township Master Plan and for the specific purposes of:
  1. Promoting and protecting the public health, safety, and general welfare;
  2. Create a diversified and balanced mixture of land uses that will support the economic viability, tax base and livability of the Township;
  3. Regulate the intensity of land development to ensure compatibility among land uses and, where applicable, provide transitions between land uses to reduce the negative physical and visual impact on adjacent properties;
  4. Protecting the character and stability of the recreational, agricultural, residential, commercial, industrial, and public lands within Highland Township;
  5. Provide a solid residential base that will offer a variety of needed housing opportunities and protect residential areas from incompatible land uses;
  6. Provide industrial, commercial and office uses that offer diversity of services for different target markets that are appropriately located for convenience and safety;

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<sup>1</sup>Editor's note(s)—Printed herein is the Charter Township of Highland Zoning Ordinance, adopted November 18, 2010, and amended July 11, 2012. Amendments to this ordinance passed subsequent to July 11, 2012, shall be accompanied by history notes indicating the adoption date of the amending legislation. Certain aspects of this chapter are consistent with the rest of the Township's Code of Ordinances, while other aspects, such as numbering and capitalization, are not.

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7. Providing adequate light, air, and privacy to property;
  8. Preserve and improve the capacity and safety of the existing road system to mitigate direct impacts of new development where possible;
  9. Conserving life, property, and natural resources;
  10. Stewarding the expenditure of funds for public improvements and services; and
  11. Conserving the taxable value of land, buildings, and structures of Highland Township

**Sec. 1.03. Validity and severability.**

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

**Sec. 1.04. Scope and construction of regulations.**

- A. This Ordinance shall be liberally construed in such manner as to best effectuate its meaning and purpose. In interpreting and applying the provisions of this Ordinance, the requirements shall be held to the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare.
- B. No building or structure, or part thereof, shall be erected, constructed, reconstructed or altered and maintained, and no new use or change of use shall be made or maintained of any building, structure or land, or part thereof, except as permitted by and in full conformity with the provisions of this Ordinance.

**Sec. 1.05. Conflict with other laws.**

- A. Where any condition imposed by any provision of this Ordinance upon the use of any parcel, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance or by the provision of an ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- B. This Ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this Ordinance shall govern.
- C. Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

**Sec. 1.06. Vested right.**

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

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### **Sec. 1.07. Repeal of ordinance.**

The Charter Township of Highland Zoning Ordinance, also known as Ordinance Number 1A and all amendments thereto, are hereby repealed upon the effective date of this Ordinance. The repeal of Ordinance 1A and all its amendments does not affect or impair any act done; offense committed or vested right or liability, penalty, forfeiture or punishment incurred prior to the enactment of this Ordinance.

## **ARTICLE 2. RULES OF CONSTRUCTION AND DEFINITIONS**

### **Sec. 2.01. Rules of interpretation.**

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

- A. The particular shall control the general.
- B. In the case of any differences of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "person" includes a firm, association, organization, partnership, trust, corporation, or company as well as an individual.
- D. The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.
- E. The word "shall" is mandatory; the word "may" is permissive.
- F. The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used" or "occupied."
- G. A "building" or "structure" includes any part thereof.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," such conjunctions shall be interpreted as follows:
  - "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.

### **Sec. 2.02. Definitions beginning with the letter "A."**

*Accessory use, building or structure.* A use, building or structure on the same parcel with, and of a nature customarily incidental and subordinate to, the principal use, building or structure.

*Adult oriented business.* Establishments whose patrons are restricted by law to persons 18 years or older and which by their very nature have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. See also SEXUALLY ORIENTED BUSINESS.

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*Alley.* Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

*Alterations.* Any change, addition or modification in construction or type of occupancy, or in the structural members of a building such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to in this Ordinance as altered or reconstructed.

*Alternative energy systems.* Energy generated from renewable natural resources such as sunlight, wind, and geothermal heat. Alternative energy systems may also include facilities that generate energy through conversion of biomass or biogas to energy.

*Alternative energy systems, site specific scale.* Alternative energy systems that are designed primarily to supply some or all of the energy needs of the permitted principal uses of the site. Excess electric energy may be delivered to public grid.

*Alternative energy systems, utility scale.* Alternative energy systems that are designed primarily to deliver energy to end users in other locations (e.g., electric energy generated specifically to deliver to the grid).

*Animal.* A non-human zoological species.

*Animal feed operations (AFOs).* Any agricultural operations where animals are kept and raised in confined situations for a total of forty-five (45) days or more in any twelve (12) month period. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures. AFOs that meet the regulatory definition of a concentrated animal feeding operation (CAFO) have the potential of being regulated under the National Pollutant Discharge Elimination System (NPDES) permitting program as regulated by the Environmental Protection Agency (EPA).

*Automobile collision repair facility.* A facility which offers and provides for, vehicle frame straightening, repair or replacement of vehicle sheet metal, vehicle painting or repainting, and similar related services.

*Automobile gas station.* A building or premises used primarily for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles; together with the sale of minor accessories and services for motor vehicles such as filling tires with air, checking fluid levels, adding water to batteries or radiators, and similar activities; as well as selling convenience foods and other such items through a convenience store. Automobile repair is expressly excluded from this definition.

*Automobile oil changing station.* A building or premises used primarily for the dispensing, sale, or offering for sale of motor oil and other fluids directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles such as filling tires with air, checking fluid levels, adding water to batteries or radiators, and similar activities.

*Automobile parts and accessory store.* An establishment whose principal business activity is the sale of automobile parts and accessories.

*Automobile repair facility.* A facility which offers and provides for repair of mechanical, electrical, cooling, exhaust, brake, and power system repairs including collision shops, transmission repair shops, shops used for the internal repair or engine components and drive train repair, and radiator repair shops.

*Automobile washing facility.* A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means.

*Awning or canopy.* An overhanging projection or shelter for protection from the sun or weather or an ornamental roof like projection or covering typically made of canvas.

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### **Sec. 2.03. Definitions beginning with the letter "B."**

*Banquet/meeting hall.* A building or part of a building used for the purposes of entertaining a large group of people where food and beverage may be provided; and where a catering facility may be included. This use shall also include a building or part thereof in which facilities are provided for such purposes as meeting for groups of civic, educational, political, religious or social purposes.

*Basement.* That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the grade to the floor is greater than or equal to the vertical distance from the grade to the ceiling. A basement shall not be counted as a story unless it is more than 6 feet above the finished grade for more than 50 percent of the total building perimeter. Basement is illustrated in Figure 2.1.

*Bed and breakfast.* A structure which is occupied on a permanent basis by a family or household which rents rooms to individuals and/or families on a daily or weekly basis. Rented rooms shall not include cooking facilities.

*Block.* The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, un-subdivided acreage, lake river or live stream or any other barrier to the continuity of development or corporate boundary lines of the Township.

*Buildable area.* That area of a lot which is free of all public rights-of-way, all private road easements, any public utility easements, all drainage easements, all wetlands, water bodies, areas of recorded flooding which shall place limitations on overhead, surface or underground use or development.

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

*Building height.* The vertical distance measured from finished grade to the highest point of flat roofs, to the deck line of mansard roofs, and to the average height between the point where the external wall intersects the roof line and the ridge for gable, hip and gambrel roofs. Building height is illustrated in Figure 2.2.

*Building, primary face(s).* The face(s) of a building used for office, commercial or industrial uses which collectively contain the public entrances to businesses occupying the building. Each unit may have only one (1) primary face. Primary face(s) of [a] building is illustrated in Figure 2.17.

( Ord. No. Z-005, § 1, 3-11-2015 )

### **Sec. 2.04. Definitions beginning with the letter "C."**

*Campground.* A parcel in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for tents or recreational vehicles.

*Catering facility.* A place where cooking services with related equipment, utensils and food service items are for hire and the food is prepared on the premises for delivery to customers who are picking up the food or being served off premises. Catering facilities do not include banquet facilities where food is served.

*Club.* Buildings and facilities owned and operated by a corporation or association or persons for social or recreational purposes for members and guests, but not operated primarily for profit or to render a service customarily carried on as a business.

*College/university.* An institution other than a trade school that provides full-time or part-time education beyond high school.

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*Commercial vehicle.* Any vehicle bearing or required to bear commercial license plates or falls into one or more of the categories listed below:

- (1) Truck tractors;
- (2) Semi-trailers, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-style enclosures;
- (3) Vehicles of a type that are commonly used for the delivery of bread, fruit, milk and ice cream or similar vending supply or delivery trucks. This category shall also include vehicles similar in nature that are commonly used by construction-oriented contractors, such as electricians and plumbers;
- (4) Tow trucks;
- (5) Commercial hauling trucks;
- (6) Vehicle repair service trucks;
- (7) Snow plowing trucks;
- (8) Passenger buses, taxis and limousines; and
- (9) Any other vehicle similar to the vehicles listed above.

*Community living facility.* A multi-tenant residential building consisting of sixty-four (64) or more living units designed to encourage socialization among residents and otherwise promote a shared sense of community by means of facilities, amenities and/or services not commonly found in many apartments. Such facilities, amenities and/or services may include, but are not limited to, common dining areas, game rooms, fitness centers, libraries or reading rooms, health and beauty salons, spas, pools, saunas, small gift shops, on-site medical care, on-site banking, as well as concierge services such as housekeeping, laundry, personal hygiene, pet care and transportation. Examples of community living facilities include, but are not limited to, retirement communities, assisted living facilities, and other residential communities catering to a particular lifestyle or demographic. The facilities, amenities and/or services provided shall be limited to use by the facility's tenants and their guests, and shall not be open to the general public.

*Condominium.* Condominium shall include the following elements:

*Condominium Act.* Refers to Act 59 of the Public Acts of 1978, as amended.

*Condominium documents.* The master deed recorded pursuant to the Condominium Act and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

*Condominium lot.* The condominium unit including the contiguous limited common element surrounding the condominium unit which shall be considered a lot as defined by this Ordinance.

*Condominium unit.* The portion of a condominium project designed and intended for separate ownership and use as described in the master deed.

*General common element.* The common elements other than the limited common elements reserved in the master deed for use by all of the co-owners.

*Limited common element.* A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

*Master deed.* The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference with the bylaws for the project and the condominium subdivision plan for the project.

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*Site condominium.* A condominium development in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit. Such developments are also described in the Master Deed.

*Crematorium.* A facility intended and equipped for use in the act of cremation.

( Ord. No. Z-014 , § 1, 6-12-2019)

## **Sec. 2.05. Definitions beginning with the letter "D."**

*Day care facility.* Means the following:

*Adult day care center.* A center other than a private home in which one or more adults 18 years of age or older are supervised and receive care for periods of time not to exceed sixteen (16) hours in a twenty-four (24) hour period. It includes facilities for adults who are aged, mentally ill, developmentally disabled or physically handicapped that require supervision. An adult day care center does not include alcohol or substance abuse rehabilitation centers, residential center for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care center.

*Adult day care home.* An owner occupied private home, in which one (1) but less than seven (7) adults, 18 years of age or older are given care and supervision for periods of time not to exceed sixteen (16) hours in a twenty-four (24) hour period. It includes facilities for adults who are aged, mentally ill, developmentally disabled or physically handicapped that require supervision. An adult day care home does not include alcohol or substance abuse rehabilitation centers, residential center for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care home.

*Child care center.* A state-licensed facility other than a private home receiving one (1) or more minor children for care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian. The facility is generally described as a child-care center, day-care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. The term "day-care center" does not include any of the following:

- (1) A Sunday school, a vacation bible school or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
- (2) A facility operated by a religious organization where children are cared for not greater than three (3) hours while persons responsible for the children are attending religious services.

*Family child care home.* A state licensed private home in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. The term "family child care home" includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year. The licensee of the family child care home must also be a resident of the private home.

*Group child care home.* A state-licensed private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage or adoption. The term "group child care home" includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. The licensee of the group child care home must also be a resident of the private home and a member of the household.

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*Dealership.* A building or premises used primarily for the sale or rental of new and used automobiles, trucks, boats, recreational vehicles and other motor vehicles, and which may include accessory repair facilities and outside storage and display areas.

*Deck.* A structure without a roof having a foundation to hold it erect, and attached to or abutting one or more walls of a building or constructed separately from a building with or without direct access to the ground, the floor of which is above finished grade, and intended for use as an outdoor living area.

*Density, residential.* The number of dwelling units in relation to the number of buildable acres of the parcel on which such units are situated.

*Drive-through facility.* An establishment that is designed to permit customers to receive products or services while remaining seated in a motor vehicle.

*Dwelling, multiple-family.* A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing two (2) or more dwelling units.

*Dwelling, single-family.* A building containing not more than one (1) dwelling unit.

*Dwelling, single-family attached.* A building containing dwelling units, each of which has primary private ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

*Dwelling unit.* One or more rooms connected together with principal kitchen and bathroom facilities designed as a unit for residence by only one (1) family for living and sleeping purposes, constituting a separate, independent housekeeping establishment, and physically separated from any other rooms or dwelling units which might be in the same structure.

## **Sec. 2.06. Definitions beginning with the letter "E."**

*Easement.* The right of an owner of property by reason of such ownership to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses. In the context of this Ordinance, private road easements shall be designated for the purposes of vehicle ingress and egress.

*Essential services.* The term "essential services" shall mean the erection, construction, alterations, or maintenance by public utilities or municipal departments, commissions, or boards, or by other government agencies of underground, surface, or overhead gas, electric, steam, or water transmission or distribution system, collection, communications, supply or disposal systems, dams, weirs, culverts, bridges, canals, locks, poles, wires, mains, drains, sewers, towers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, or signs and fire hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions, or other government agencies, or for the public health, safety, or general welfare, but not including buildings other than those buildings which are primarily enclosures or shelters for the installed central services equipment.

*Equestrian sports academy.* Any establishment where horses are kept for training, riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

( Ord. No. Z-014 , § 1, 6-12-2019)

## **Sec. 2.07. Definitions beginning with the letter "F."**

*Family.* An individual or a group of two (2) or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than three (3) additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.



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*Farm buildings.* Any building or structure, other than a dwelling, erected, moved upon, or used on a farm, which is essential and customarily used on farms of that type for pursuit of agricultural activities.

*Farm market.* A place or an area where farm products are sold directly to the customer. A farm market may include, but need not include, a temporary or permanent structure. Farm markets shall be further classified as follows:

*Class A farm market.* A farm market that satisfies the following conditions:

- (1) Display and sales area no larger than 1000 square feet; and
- (2) Does not involve any permanent structures; and
- (3) Does not operate more than 180 days per calendar year.

*Class B farm market.* A farm market with one or more of the following characteristics:

- (1) Display and sales area in excess of 1000 square feet; or
- (2) Which involves a permanent structure; or
- (3) Which operates more than 180 days per calendar year.

*Class C farm market event venue.* A farm market of any size which conducts activities designed to attract and entertain customers, such as, but not limited to cooking demonstrations, corn mazes, farm education programs, farm tours, fishing ponds, hay rides, horseback riding, petting farms, picnic areas, festivals, etc.

*Farm product.* Plants and animals useful to humans produced by agricultural activities, including, but not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock (including breeding and grazing), equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur as determined by the Michigan Commission of Agriculture.

*Fence.* An enclosure, obscuring screen or a barrier erected to prevent straying from within, intrusion or to promote visual privacy.

*Fence, decorative.* A structure intended primarily for ornamental purposes. A decorative fence shall be any fence which by definition, is not to be considered a protective or security fence, a chain link fence or a privacy fence.

*Floodplain.* Area of land adjoining a river, stream, or other body of water that is susceptible to being inundated by flood waters. Floodplain is illustrated in Figure 2.3.

*Floor area, gross.* The floor area within the inside perimeter of the exterior walls of a building under consideration.

*Floor area, net.* Measurement of the actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

*Floor area ratio.* The gross floor area of principal and accessory structures divided by the buildable area of the site. For the purposes of calculating floor area ratio, pools, play structures, sheds of 150 square feet or smaller, most uncovered decks or porches or any structure with a height of less than five feet above grade are not included in the calculation. That portion of uncovered decks and porches that is less than 50 percent of the footprint of the principal building is exempt from inclusion in the calculation of gross floor area and floor area ratio. Floor area ratio is illustrated in Figure 2.4.

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*Foot-candle.* A basic measurement of luminance, which is the amount of light falling on a surface. Foot-candle measurement is taken with a light meter. One foot-candle is equivalent to the luminance produced on one square foot of surface area by a source of one standard candle at a distance of one foot.

*Foster care.* Provision of supervision, personal care and protection in addition to room and board for twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks for compensation.

*Foster care, adult.* A state licensed, governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, 218 of 1979, MCL 400.701, as amended. Licensed adult foster care facilities include the following:

*Adult foster care small group home.* A state licensed facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

*Adult foster care large group home.* A state licensed facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

*Adult foster care family home.* A state licensed private home with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

*Adult foster care congregate facility.* A state licensed facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

*Foster care home, child.* A state licensed establishment that provides foster care to minor children. Licensed child foster care facilities include the following:

*Foster family home.* A state licensed private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood or marriage, are provided care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

*Foster family group home.* A state licensed private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code, are provided care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

## **Sec. 2.08. Definitions beginning with the letter "G."**

*Garage, private.* An accessory building or structure used principally for storage of automobiles and for other incidental storage purpose only and having no public sales or shop services in connection therewith.

*Glare.* Direct light emitted by a lamp, luminous tube lighting or other light source that causes annoyance, discomfort or loss in visual performance and visibility.

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*Golf course.* A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses.

*Golf course, miniature.* A novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

*Golf course, par 3.* A golf course that is a shorter, lower-par course than a regulation 18-hole course. A par-3 course is often only nine holes in length.

*Golf driving range.* An area equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, and which may include a snack-bar and pro-shop, but excludes miniature golf courses and "putt-putt" courses.

*Grade.* The average elevation of the land around a building or structure. Grade is illustrated in Figure 2.5.

*Grade, finished.* The final elevation of the ground surface after development. Finished grade is illustrated in Figure 2.5.

*Grade, natural.* The elevation of the ground surface in its natural state before construction, filling, or excavation. Natural grade is illustrated in Figure 2.5.

*Gross site area.* Area of site determined by the legal description of the parcel excluding submerged lands and public road right-of-ways.

## **Sec. 2.09. Definitions beginning with the letter "H."**

*Hazardous substances.* Hazardous substances include hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan Department of State Police, Fire Marshal Division; hazardous materials as defined by the U.S. Department of Transportation; and critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources. Petroleum products and waste oil are considered hazardous substances for the purpose of this ordinance.

*Home for the aged.* A state-licensed supervised personal care facility, other than a hotel, adult foster care facility, hospital, or nursing home, that provides room, board, and supervised personal care to twenty-one (21) or more unrelated, nontransient, individuals sixty (60) years of age or older. Home for the aged includes a supervised personal care facility for twenty (20) or fewer individuals sixty (60) years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home.

*Home occupation.* An occupation that is clearly incidental and subordinate to the principal residential use that is carried on in the home by a resident member of the family.

*Hospital.* An institution providing health services primarily for in-patient medical or surgical care of the sick or injured, and includes related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are integral parts of the facilities.

*Hotel.* A building with a common entrance or entrances in which the rental units are used primarily for transient occupancy, and/or in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service and bellhop service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

( Ord. No. Z-014 , § 1, 6-12-2019)

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## Sec. 2.10. Definitions beginning with the letter "I."

*Institutional uses.* Public and private schools; colleges; libraries; community buildings; religious institutions and municipal facilities.

*Institutional uses, large scale.* For purposes of this Ordinance, a large scale institution shall mean an institutional use with a seating capacity of one thousand (1,000) people or more in its main area of assembly or more than three hundred twenty five (325) parking spaces. A large scale institution may also be characterized by any one or more of the following features: region-serving accessory facilities such as high schools, colleges, and seminaries; one or more buildings fifty thousand (50,000) square feet in floor area or greater; or other features. Large scale institutions are distinguished by such features as: large size of assemblies and resultant traffic surges, large off-street parking lots, retreat and conference centers, or major institutional character.

*Invasive species.* A plant species that evolved in a country or region other than Oakland County, Michigan, and has been introduced by human activity, has no natural controls, and is able to out-compete and gradually displace native plants. A list of prohibited invasive plant species is included in this Ordinance.

## Sec. 2.11. Definitions beginning with the letter "J."

Reserved.

## Sec. 2.12. Definitions beginning with the letter "K."

*Kennel.* Any building, structure, enclosure, or premises where three (3) or more dogs or cats, six (6) months of age or older, are kept for breeding, sales and/or sporting purposes.

( Ord. No. Z-005, § 1, 3-11-2015 )

## Sec. 2.13. Definitions beginning with the letter "L."

*Lamp.* The component of the luminary that produces light including luminous tube lighting.

*Landscaping.* The following definitions shall apply in the application of this Ordinance:

- A. *Berm.* A landscaped mound of earth which blends with the surrounding terrain. Berm is illustrated in Figure 2.7.
- B. *Buffer.* A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses. Buffer is illustrated Figure 2.7.
- C. *Greenbelt.* A landscaped area which is intended to provide a transition between a parcel and public road right-of-way. Greenbelt is illustrated in Figure 2.8.
- D. *Opacity.* The state of being impervious to sight. Opacity is illustrated in Figure 2.9.
- E. *Plant material.* A collection of living evergreen and/or deciduous, woody-stemmed trees or ornamental, shrubs, vines and ground cover.
- F. *Screen.* A structure providing enclosure such as a fence and provides a visual barrier between the area enclosed and the adjacent property. A screen may also consist of shrubs or other living materials.

*Large scale retail establishment.* A retail establishment commonly referred to as a "big box" store, which exceeds fifty thousand (50,000) square feet in gross floor area.

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*Light fixture.* The assembly that holds a lamp and may include an assembly housing, a mounting bracket or socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting. A light fixture is a luminary.

*Light pollution.* Artificial light which causes a detrimental effect on the environment, the enjoyment of the night sky or the practical use of adjacent properties.

*Light trespass.* The shining of light produced by a luminary beyond the boundaries of the property on which it is located.

*Livestock.* Farm animals, such as beef cattle, dairy cows, horses, sheep, hogs, goats, chickens, and turkeys otherwise known as bovine, equine, swine, ovine and poultry raised for home use or for profit, especially on a farm.

*Loading space, off-street.* Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

*Lot.* A measured portion of a parcel or tract of land which is described and fixed in a recorded plat. For the purpose of this Ordinance refer to the definition of parcel.

*Lot area.* The horizontal area within the lines of a parcel. Lot area is illustrated in Figure 2.10.

*Lot coverage.* The area of a parcel covered by buildings or structures expressed as a percentage of the total parcel area, including principal and accessory structures, decks, pools and similar structures.

*Lot depth.* The distance between the front and the rear lot lines measured at the farthest point. Lot depth is illustrated in Figure 2.10.

*Lot frontage.* The length of the front lot line measured along the street right-of-way line. Lot frontage is illustrated in Figure 2.11.

*Lot lines.* A line separating a parcel from surrounding parcels or adjacent street or road rights-of-way or easements. Lot lines may include the following:

- A. *Front.* A line separating a parcel from a street right-of-way or road easement.
- B. *Rear.* The lot line which is typically opposite and most distant from the front lot line. In the case of corner or irregularly shaped lots, the rear lot line shall be determined by review of adjacent lot geometry and prevailing building patterns to ensure that a) side to side setback and rear to rear setback relationships are established where practical; and b) rear lot lines are established in anticipation of future land divisions where allowable by ordinance.
- C. *Side.* Any lot line which is not a front or rear lot line.

Lot lines are illustrated in Figure 2.11.

*Lot types.*

- A. *Corner.* A parcel located at the intersection of two (2) or more streets where the interior angle does not exceed one hundred thirty-five (135) degrees.
- B. *Interior.* A parcel other than a corner lot with only one (1) frontage on a street.
- C. *Irregular frontage.* A parcel which cannot conform to the minimum lot width requirements of this ordinance as measured at the front lot line.
- D. *Through or double frontage lot.* A parcel other than a corner lot with frontage on more than one (1) street.

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Lot types are illustrated in Figures 2.12 and 2.13

*Lot width.* The length of a straight line measured between the two points where the required front setback intersects the side lot lines. For lots having two (2) or more lot frontages, the minimum lot width shall be the shortest of the lot frontages. Lot width is illustrated in Figure 2.10.

*Lumens.* A measurement of the perceived power of light.

## **Sec. 2.14. Definitions beginning with the letter "M."**

*Major thoroughfares.* For the purpose of this Ordinance, the following roads are considered major thoroughfares: Clyde Road, Duck Lake Road, Harvey Lake Road, Hickory Ridge Road, Highland Road (M-59), Livingston Road, Milford Road, Rose Center Road and White Lake Road.

*Manufactured home.* A structure, transportable in one (1) 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.

*Manufactured home pad.* That part of a mobile home site specifically designated for the placement of a manufactured home.

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

*Manufactured home site.* The entire area which is designated for use by a specific manufactured home.

*Marginal access drive.* Any drive which provides vehicular access between adjacent parcels without necessitating the use of the adjacent street. A marginal access drive may be located in a public right-of-way subject to the approval of the public agency having jurisdiction over the right-of-way. A marginal access drive may be located on private property provided that appropriate access easements are recorded. A marginal access drive located on private property may also serve to provide access to individual parking spaces.

*Marihuana or medical marihuana.* That term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106, as amended.

*Massage establishment.* Any individual, group of individuals, person or business which engages in the practice of massage as defined herein, and which has a fixed place of business where any person, firm, association, partnership, limited liability company or corporation carries on any of the activities as defined in herein. Massage establishment shall also include, but not be limited to, a Turkish bath parlor, steam bath, sauna, magnetic healing institute, health club, health spa, or physical fitness club or business that offers massages on occasion or incidental to its principal operation, as well as an individual's home where a person is engaged in the practice of massage for consideration.

*Massage therapy.* The application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well being of the client. Practice of massage therapy includes complementary methods including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, other topical preparations and electromechanical devices that mimic or enhance the actions possible by the hands. Practice of massage therapy does not include medical diagnosis, practice of physical therapy, high-velocity, low-amplitude thrust to a joint, electrical stimulation, application of ultrasound, or prescription of medicines.

*Master plan.* The Comprehensive Land Use Plan adopted by the Township in accordance with Michigan statute.

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*Medical marihuana activities.* The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of medical marihuana by a qualifying patient or primary caregiver as defined in the Michigan Medical Marihuana Act, PA 2008, Initiated Laws, MCL 333.26421 et seq.

*Medical marihuana provisioning center.* A commercial entity located in the Township that acquires, possesses, manufactures, delivers, transfers, or transports medical marihuana and sells, supplies, or provides medical marihuana to registered qualifying patients, directly or through their registered primary caregivers. The term shall include, but not be limited to, dispensaries, cooperatives, and any other operation or facility similar in nature, and any commercial property where medical marihuana is sold to registered qualifying patients and registered primary caregivers, or any property used by more than one primary caregiver. The location used by a single primary caregiver to assist a qualifying patient connected to the caregiver through the medical marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for the purposes of this article.

*Medical marihuana safety compliance facility or safety compliance facility.* An entity that tests marihuana produced for medical use for contaminants.

*Medical marihuana safety compliance facility agent or medical marihuana provisioning center agent.* A principal officer, board member, employee, operator, or agent of the safety compliance facility or provisioning center, as applicable.

*Mineral mining and extraction.* The removal of natural mineral deposits such as, but not limited to, sand, gravel, clay, stone or other non-metallic or metallic material. Mineral mining and extraction shall not include oil and gas well exploration and installation, excavation associated with a construction project for which a site plan has been approved, or excavation associated with a project conducted by a public agency or utility.

*Motel.* A series of attached, semidetached or detached rental units containing bedroom, bathroom and closet space. Such units shall provide for overnight lodging, are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

*Municipal facilities.* Land or buildings owned or operated by a governmental or other public agency.

( Ord. No. Z-005, § 1, 3-11-2015 )

## **Sec. 2.15. Definitions beginning with the letter "N."**

*Natural feature.* A wetland or watercourse, including a lake, pond, river, stream, or creek; any flood-prone area; woodlands; steep slopes; and the habitat of rare or endangered plant and animal species.

*Nature and wildlife preserve.* A parcel of land which is established for the purpose of preserving and protecting natural communities of plants and animals for their scientific and/or aesthetic interest.

*Non-conforming building or structure.* A structure or building lawfully constructed prior to the effective date of this ordinance that does not conform with the requirements of the district in which it is situated.

*Non-conforming use.* A use which lawfully occupies a building or land at the effective date of this Ordinance, or amendments thereto, that does not conform to the provisions of the Ordinance in the district in which it is located.

*Non-conforming lot.* A lot, the area, dimension, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

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## **Sec. 2.16. Definitions beginning with the letter "O."**

*Ordinance.* The Charter Township of Highland Zoning Ordinance and any amendments thereto.

*Ordinary high water mark.* The line between upland and bottomland which persists through successive changes in water levels, below which the presence of action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and vegetation. On an inland lake which has a level established by law, it means the highest established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark. Ordinary high water mark is illustrated in Figure 2.3.

*Outdoor display and sales.* Placement of portable products that are typically sold by a particular business that may be placed outside the building for marketing purposes.

## **Sec. 2.17. Definitions beginning with the letters "P" and "Q."**

*Parcel.* A continuous area or tract of land. A parcel may consist of acreage, a lot, a combination of lots, a condominium unit in a condominium subdivision plan, as reflected in the Township tax map.

*Parking facility, off-street.* A land surface or area providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of motor vehicles.

*Parking space.* One (1) unit of a parking facility provided for the parking of one (1) vehicle.

*Path.* A sidewalk, trail or corridor intended to provide for pedestrian, bicycle or other non-motorized forms of travel.

*Performance guarantee.* Cash or an automatically renewable irrevocable letter of credit deposited by an applicant with the Township to ensure completion of site improvements or performance of other obligations associated with a permit or land use approval.

*Pet care facility.* A pet care facility is an establishment where domesticated household pets are supervised, socialized, and/or trained. Pet care facilities may offer accessory retail sales of goods and services such as pet food and other pet care supplies, grooming, and overnight boarding within the confines of the building.

*Planning Commission.* The Charter Township of Highland Planning Commission.

*Play structure.* A freestanding accessory structure used for recreational and play activities.

*Principal structure.* The structure or structures which house the principal use or uses to which a parcel is devoted.

*Private road.* An area of land which is privately owned, has not been dedicated to public use other than access by emergency and public safety vehicles, is maintained by its private owners, and vehicular access to more than one (1) lot unless otherwise specified herein.

*Public road.* A traffic-way dedicated to either the Road Commission for Oakland County or the State of Michigan, which provides vehicular access to abutting thoroughfares.

*Public services.* Services provided by government to its citizens including but not limited to police, ambulance, fire services, libraries, parks and recreation.

*Public utility.* Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under federal, state, or municipal regulations, to the public: electricity, gas, steam, communications, telephone, transportation, water or sanitary sewer facilities. Wireless communication service providers are not defined as public utilities.



**Sec. 2.18. Definitions beginning with the letter "R."**

*Recreational vehicle.* For purposes of this Ordinance, a recreational vehicle shall include the following:

- A. *Boats and boat trailers.* Shall include watercrafts, boats, jet skis, rafts, canoes, plus the normal equipment to transport them on the highway.
- B. *Folding tent trailer.* A folding structure mounted on wheels and designed for travel and vacation use, such as a pop-up camper.
- C. *Motor home.* A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water and electrical facilities.
- D. *Other recreational equipment.* Other recreational equipment includes snowmobiles, all terrain or special terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.
- E. *Pickup camper.* A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during or travel, recreational and vacation uses.
- F. *Travel trailer.* A portable vehicle on a chassis which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

*Religious institution.* A site used for or intended for the regular assembly of persons for conducting religious services and accessory uses. Such accessory uses may include living quarters for members of the religious order who carry out their duties primarily on the site, religious education classes, day care, outdoor recreation facilities (unlighted), religious office space, youth centers and other similar activities. Rescue missions, tent revivals and other temporary assemblies are not included in this definition.

*Restaurant.* Any establishment whose principal business is the preparation and sale of food and beverages. Restaurants shall include the following:

- A. *Cafe or open-front restaurant.* A restaurant whose method of operation involves delivery of prepared food for consumption primarily on the premises, but with seating options both outside and inside the enclosed building.
- B. *Carry-out restaurant.* A restaurant whose method of operation involves the sale of food, beverages and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- C. *Drive-in restaurant.* A restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- D. *Drive-through restaurant.* A restaurant whose method of operation involves the delivery of prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- E. *Standard restaurant.* A restaurant whose method of operation involves the consumption of food and beverages by customers seated at tables.

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- F. *Tavern.* A type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a tavern is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

*Retaining wall.* A structure intended to hold back earth where it is impractical or unfeasible to establish a stable finished grade through grading and vegetation alone. Retaining wall is illustrated in Figure 2.14.

*Right-of-way.* A strip of land over which a person may pass by right and upon which facilities such as roads, railroads and/or utilities can be built. A right-of-way may be either a public or private strip of land to be used for the above purpose.

*Right-of-way, proposed.* A proposed right-of-way is a strip of land still under private ownership that is planned to be a right-of-way by the owner or a federal, state or local unit of government in the future for which the transfer of title has not been executed as of the date the property is subject to review for some development purpose.

## **Sec. 2.19. Definitions beginning with the letter "S."**

*Salvage yard.* A place, structure, parcel or use of land where junk, waste, discard, salvage or similar materials such as old iron or other metal, wood, lumber, glass, paper, rags, cloth, leather, rubber, bagging, cordage, barrels, containers, etc. are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto wrecking yards, inoperative machines, used lumber yards, house wrecking and structural steel materials and equipment and including establishments for the sale, purchase, or storage of salvaged machinery and the processing of used, discarded, or salvaged materials, for any thirty (30) consecutive days.

*Sanitary land fill.* Any land where garbage, filth, refuse, waste, trash, debris or rubbish, including cans, bottles, waste paper, cartons, boxes and crates or otherwise offensive or obnoxious matter is kept for disposal. This excludes the spreading of sludge on farm fields for fertilizing purposes.

### *Schools.*

*Charter school (public school academy).* A charter school or public school academy is a public school and a school district, and is subject to the leadership and general supervision of the Michigan State Board of Education. A public school academy is authorized by the executive action of an authorizing body with jurisdiction.

*Private school.* Any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

*Public school.* An elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or department or state board with jurisdiction.

*Seasonal uses.* Uses that are devoted to products or services that are typically associated with a particular season of the year.

*Self-storage facility.* A building consisting of individual, small self-contained units that are leased for the storage of personal and household goods.

*Sexually oriented business.* For the purpose of this Ordinance, the following definitions shall be classified as adult oriented uses, adult entertainment use or an establishment including but not limited to the following:

- A. *Adult arcade.* Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, internet or mechanically controlled still or motion picture machines,

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projectors or other image producing devices are maintained to show images and where the images so displayed are distinguished or characterized by the depicting or describing of "sexually explicit activities" or "specific anatomical areas."

B. *Adult bookstore or adult video store.* A commercial establishment which offers for sale or rental for any form of consideration, as one of its principal business purposes, any one or more of the following:

1. Books, computer diskettes, tapes or hard drives, magazines, periodicals or other printed matter or photographs, films, motion pictures, video matter, digital media or photographs, cassettes or video reproductions, slides or other visual representation and/or items which are characterized by their emphasis upon the exhibition or description of "sexually explicit activities" or "specified anatomical areas"; or
2. Instruments, devices or paraphernalia which are characterized by their emphasis upon the exhibition or description of "sexually explicit activities" or "specified anatomical areas," or designed for use in connection with "sexually explicit activities"; or
3. Items, materials, materials, gimmicks, or paraphernalia depicting, displaying, advertising or packaged as "sexually explicit activities" or depict or describe or are characterized by their emphasis on the exhibition or description of "specified anatomical areas."
4. For purposes of this Section, "principal business purpose" means:
  - a. The devotion of a significant or substantial portion of its stock-in-trade or interior floor space, meaning thirty percent (30%) or more of the stock in trade or interior floor area; or
  - b. The receipt of fifty percent (50%) of more of its annual revenues from the sale of the items listed above. Revenue is a gross measure in assets or a gross decrease in liabilities recognized and measured in conformity with Generally Accepted Accounting Principles; or
  - c. The devotion of a significant or substantial portion of its advertising expenditures to the promotion of the sale, rental or viewing of books, magazines, periodicals or other printed matter, or photographs, film, motion pictures, video cassettes, compact discs, slides or other visual representations, items, materials, gimmicks, or paraphernalia which are characterized by the depiction, description display, advertising or packaging of "sexually explicit activities" or "specified anatomical areas."
5. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "sexually explicit activities" or "specified anatomical areas," and still be characterized as an adult book store, adult novelty or retail store or adult video store. Such other business purposes will not serve to exempt such establishment from being categorized as an adult bookstore, adult novelty store or adult video store, so long as the establishment falls within the definition of an adult bookstore, adult novelty store or adult video store as set forth above.

C. *Adult cabaret.* A nightclub, bar restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of restricted nudity; or
2. Live performance which are characterized by the partial exposure of "specified anatomical areas"; or
3. Films, motion pictures, video cassettes, compact discs, slides, digital media or other photographic reproductions which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas."

D. *Adult motel.* A hotel, motel or similar commercial establishment which:

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1. Offers accommodations to the public for any form of consideration and provide patrons with closed-circuit television transmission, films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are regularly characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas" or which advertises the availability of this adult type of material by means of a sign, visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, internet or television; or
  2. Permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web; or
  3. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  4. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- E. *Adult motion picture theater.* A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, compact discs, slides, electronic media or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas."
- F. *Adult theater.* A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by the performance of "sexually explicit activities." This definition does not include a theater which features occasional live nude performances with serious literacy, artistic or political value and which has no adverse secondary effects.
- G. *Escort.* A person who, for consideration in any form, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately perform as an entertainer, including, but not limited to, the modeling of lingerie, the removal of clothing and the performance of a dance or skit. Under this definition, "privately" shall mean a performance for an individual and/or that individual's guests.
- H. *Escort agency.* A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- I. *Nude model studio.* Any place where a person appears in a state of nudity or displays "specific anatomical areas," and is provided money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons. This includes modeling studios that provide for nude modeling on an occasional basis, but it does not include modeling studio whose primary function is to provide art classes as part of a college, university or educational institution and which is certified by the State of Michigan.
- J. *Nudity ora state of nudity.* The appearance of a human bare buttock, anus, male genitals, female genitals or female breasts.
- K. *Peep booth.* An adult motion picture theater with a viewing room or cubicle of less than one hundred fifty (150) square feet of floor space.
- L. *Private room.* A room in a hotel/motel that is not a peep booth, has a bed and a bath in the room or adjacent room, and is used primarily for lodging.
- M. *Semi-nude.* A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- N. *Sexual encounter center.* A business or commercial enterprise that as one (1) of its primary business purposes offers a place where two (2) or more persons may congregate, associate or consort for the

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purpose of "sexually explicit activities," or the exposure of "specified anatomical areas" for any form of consideration including but not limited to:

1. Physical contact in the form of wrestling or tumbling between persons of the same or opposite sex; or
  2. Activities when one or more of the persons is in a state of nudity or semi-nudity; or
  3. Permits patrons to display or be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for recording or transmission over the World Wide Web or any other media.
- O. *Sexually explicit activities.* Includes any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or
  2. Sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation or sodomy; or
  3. Masturbation, actual or simulated; or
  4. An activity intended to arouse, appeal to or gratify a person's lust, passions or sexual desires; or
  5. Human genitals in a state of sexual stimulation, arousal or tumescence; or
  6. Excretory function as part of or in connection with any of the activity set forth in 1 through 5 above.
- P. *Sexually oriented business.* An adult arcade, adult bookstore or adult video store, adult novelty or retail store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or similar establishment or any place that permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web. "Sexually oriented" when used to describe film, motion picture, videocassette, slides, or other photographic reproductions shall mean film, movies, motion picture videocassette, slides or other photographic reproductions that regularly depict material which is distinguished or characterized by an emphasis on matter depicting or describing "sexually explicit activities" or "specified anatomical areas" offered for observation by the patron(s) on the premises of a sexually oriented business. The definition of "sexually oriented business" shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.
- Q. *Specified anatomical areas.* Includes any of the following:
1. Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, or female breast or breasts of any portion thereof that is situated below a point immediately above the top of the areola, or any combination of the foregoing; or
  2. Human genitals in a state of sexual arousal, even if opaquely and completely covered.
- R. *Specified criminal acts.* Sexual crimes against children, sexual abuse, criminal sexual conduct, rape, and crimes classified as sexual crimes by the State of Michigan or any other state, or crimes connected with another adult use business including but not limited to the distribution of obscenity, prostitution and/or pandering.
- S. *Significant or substantial portion.* Thirty percent (30%) or more of the term modified by such phrase.

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- T. *Substantial enlargement.* Of a sexually oriented business means the increase in floor area occupied by the business by more than fifteen percent (15%), as the floor area exists on the date of adoption of this ordinance.
- U. *Transfer of ownership or control.* Of a sexually oriented business means and includes any of the following:
1. The sale, lease or sublease of the business;
  2. The transfer of securities which constitute a controlling interest in the business whether by sale, exchange or similar means; or
  3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

*Shielded fixture.* Outdoor light fixture that shields the lamp or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted (e.g., "shoebox" type fixtures with a flat lens). A luminary mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the lamp in the same manner as a shoebox type fixture is also considered fully shielded for the purposes of this ordinance.

*Shopping center.* A coordinated grouping of retail commercial and service establishments located on a single site or contiguous group of sites with common parking and access.

*Sign.* Any announcement, message, declaration, display or illustration situated outdoors or indoors, that is designed and placed to advertise, identify, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location or otherwise convey information in written or pictorial form. Signs are further defined as follows:

*Abandoned sign.* A sign which advertises a business, service, product, or activity no longer conducted, available, or in existence on the parcel on which the sign is located.

*Awning or canopy sign.* Any sign attached to an awning or canopy.

*Changeable copy sign.* A sign or portion of a sign with letters or numbers that can be changed or rearranged, manually or electronically, without altering the face or surface of the sign.

*Free standing sign.* A sign not attached to any building that is self supported by structural supports mounted in or on the ground.

*Non-accessory sign.* Any sign which contains a message unrelated to or not advertising a business transacted or goods sold or produced on the parcel on which the sign is located; also referred to as a remote sign, billboard, or off-premise sign.

*Obsolete sign message.* A sign which no longer advertises a business, service, product, or activity conducted, available, or in existence, or the parcel on which the sign is located.

*Temporary sign.* A sign that may include a banner, pennants or other advertising device constructed of cloth, canvas, plastic or other light temporary material, with or without structural frame, or any other sign intended for a limited period of display, unless otherwise specified herein.

*Wall mounted sign.* A sign attached directly to and parallel to the exterior wall of a building.

*Window sign.* A sign painted on or affixed to a window or door for the purposes of viewing from outside the premises. This term does not include merchandise located in a window.

*Portable sign.* Any sign not permanently attached to the ground or a building.

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*Skilled care nursing facility.* A state licensed facility providing skilled, specialized care, room and board on a short or long-term basis. Such facilities may include nursing homes, extended healthcare facilities, intermediate healthcare facilities, assisted living, and hospice residences.

*Sky glow.* A condition where the night sky is illuminated when upwardly directed light reflects off particles in the atmosphere.

*Special land use.* A use which may be permitted after consideration and approval by the Planning Commission. A special land use may be granted in a zoning district only when there is a specific provision for such special use in this Ordinance.

*Story.* That portion of a building included between the upper surface of a floor and the upper surface of the floor or the roof next above. Story is illustrated in Figure 2.1.

*Story, half.* An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purpose of this Ordinance, the useable floor area is only that area having at least four (4) feet clear height between floor and ceiling.

*Street.* Dedicated public or approved private road right-of-ways other than an alley which provides vehicular access to abutting property.

*Structure.* Anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground.

*Substantial construction.* Work of a substantial character done by way of preparing the site for actual use, which includes obtaining all necessary approvals and building permits, and actual physical placement of building materials in their permanent position. Clearing trees, grading and other preparatory work does not constitute substantial construction.

*Swimming pool.* Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs, spas and inflatable pools.

( Ord. No. Z-005, § 1, 3-11-2015 ; Ord. No. Z-014 , § 1, 6-12-2019)

## **Sec. 2.20. Definitions beginning with the letters "T," "U," "V" and "W."**

*Temporary outdoor storage.* The placement of a portable product that is typically sold by a particular business that may be placed outside the building for a short time when a shipment of seasonal products are delivered to the store as provided for in this Ordinance.

*Temporary use or temporary building.* A use or building permitted to exist during a specified period of time under conditions and procedures as provided for in this Ordinance.

*Time limits.* Time limits shall mean calendar days unless otherwise specified.

*Township.* The Charter Township of Highland, Oakland County, Michigan.

*Township Board.* The Charter Township of Highland Board of Trustees.

*Township engineer.* An engineer and/or engineering firm appointed by the Township Board to represent the Township.

*Township planner.* A planner and/or planning firm appointed by the Township Board to represent the Township.

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*Trade schools.* A trade school is any school other than a public secondary school where the principal course of instruction is to prepare students to participate in a trade. Trade schools are not colleges or universities or other institutes of liberal arts or professional education.

*Transfer station.* An area where sludge, household or commercial wastes are temporarily stored awaiting permanent disposal.

*Travel trailer.* See Recreational Vehicle.

*Undefined terms.* Any term not defined herein shall have the meaning of common or standard use.

*Use.* The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

*Variance.* A departure from a provision of the Zoning Ordinance approved by the Zoning Board of Appeals for a specific parcel based on practical difficulty.

*Vested right.* A right to continue a particular use, district, zoning classification or any activity regardless of subsequent changes in ordinances or regulations.

*Walkway.* A pathway that allows pedestrians and non-motorized traffic access to adjacent properties. Examples include, but are not limited to: Sidewalks, trails, multiuse paths and bikepaths.

*Wireless communications facilities (WCF).* All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals including but not limited to radio and television transmission towers and antennae, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities.

*Antenna(e).* Equipment used for the transmission or reception of wireless communication signals.

*Amateur radio antenna.* An antenna and associated support structure that is owned and operated by a federally licensed amateur radio station operator for personal use. Also referred to as "ham radio antenna."

*Collocation.* Shall mean the location by two (2) or more wireless communication facilities on a common structure, tower, or building,

*Ground equipment.* Equipment use in the operation of the facility other than antennae or towers and the structure of enclosure within which the equipment is stored, maintained and serviced.

*Provider.* Entity that is properly licensed by the Federal communications commission (FCC) and other appropriate governmental authorities to provide services through wireless communications facilities.

*Satellite dish antenna.* An antenna structure designed to receive from or transmit to orbiting satellites.

*Tower.* A structure and any support thereto that is intended to hold apparatus which transmits or receives radio, television, pager, telephone, or similar communications, including self-supporting lattice towers, guyed towers, light poles, wood poles, or monopole towers. The term includes radio and television transmission towers and antenna arrays, microwave towers, common-carrier towers, cellular telephone and wireless internet towers, alternative tower structures, and similar wireless communication antennae support structures.

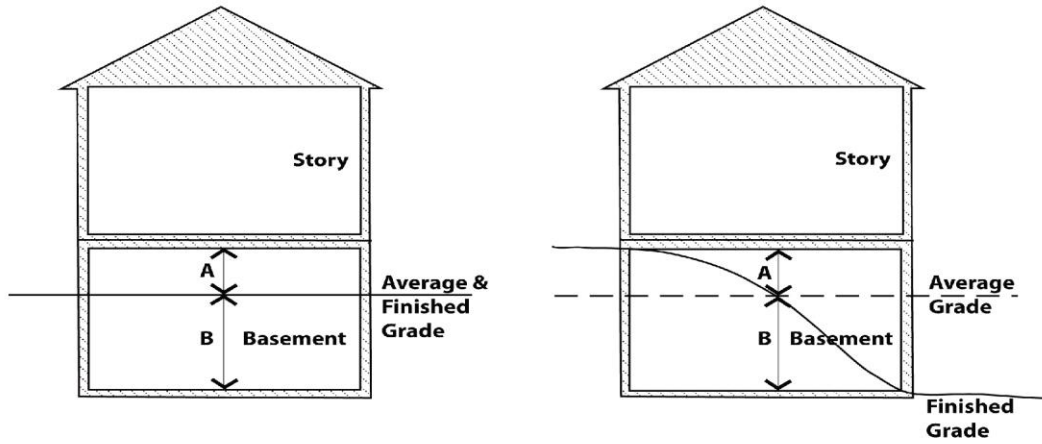
## **Sec. 2.21. Definitions beginning with the letter "Y."**

*Yard, required.* The open space between a lot line and the yard setback line within which no structure shall be located except as provided in the Zoning Ordinance

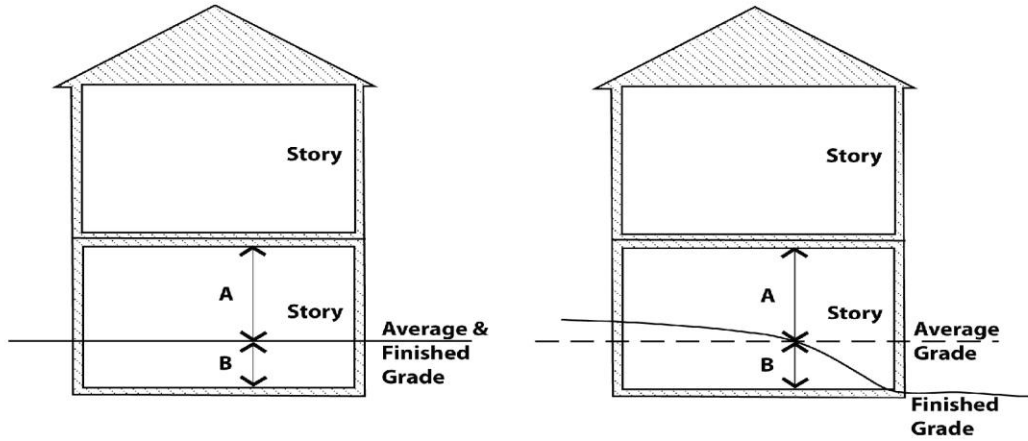
*Yard setback lines.* Yard setback lines are the lines delineated by the required minimum front, rear and side yard setbacks measured perpendicular to the front, rear and side lot lines. Yard setback lines are illustrated in Figure 2.16.



**Figure 2.1 Building Basement and Story**

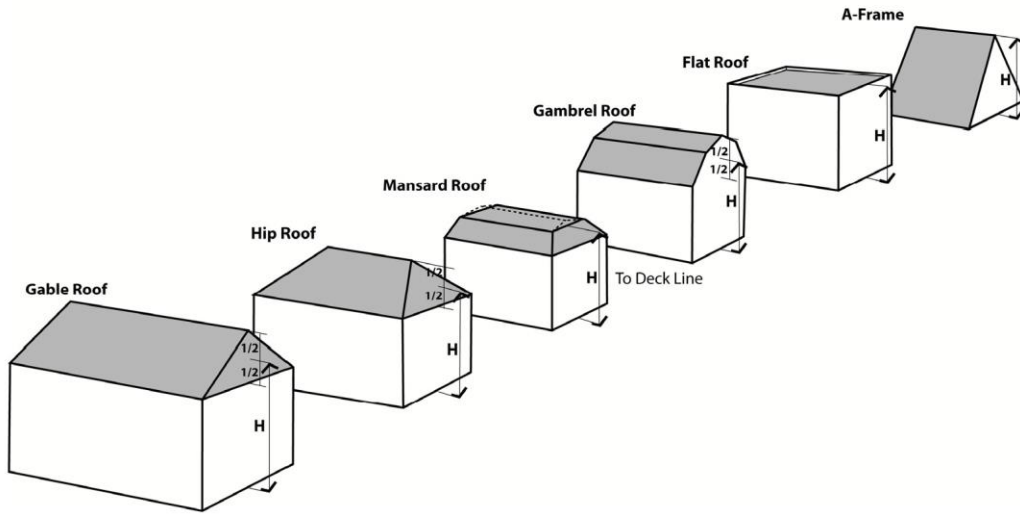


**If "A" is less than B,  
the lower floor is a basement**



**If "A" is greater than B,  
the lower floor is a story**

**Figure 2.2 Building Height**



**Figure 2.3 Floodplain and Ordinary High Water Mark**

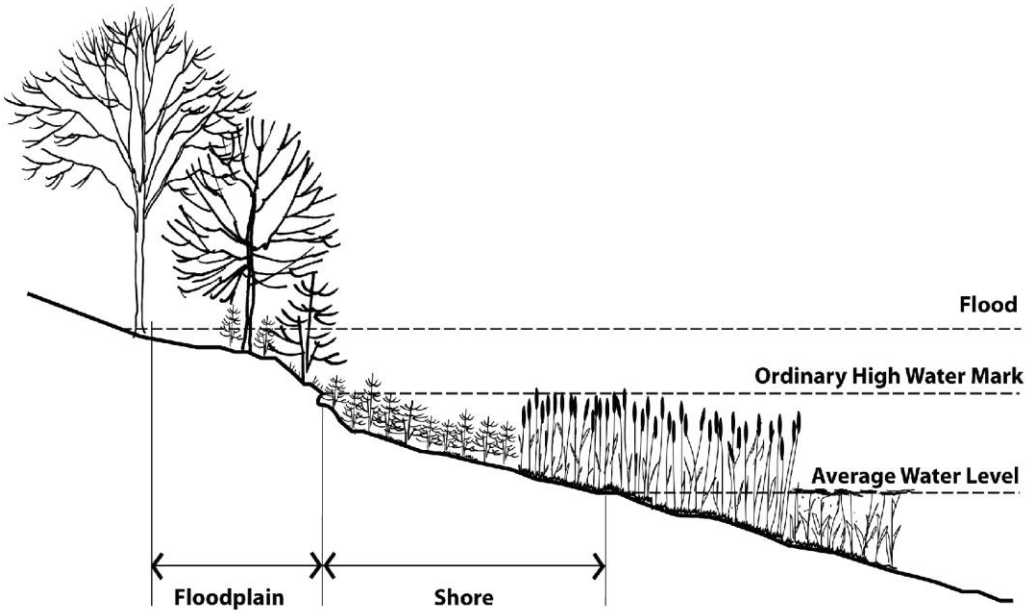


Figure 2.4 Floor Area Ratio

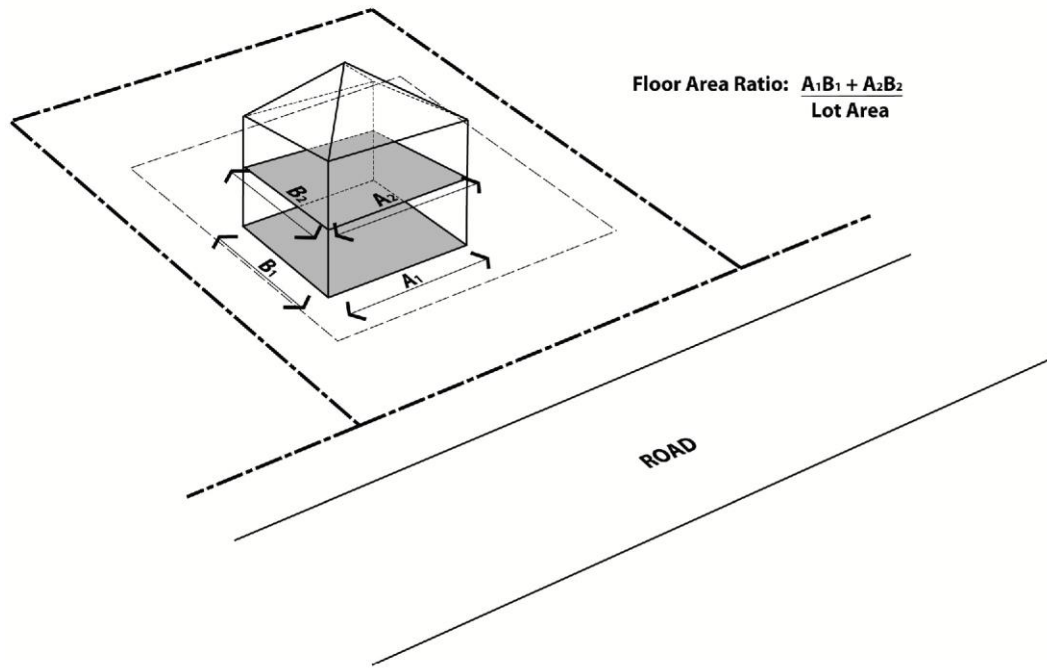
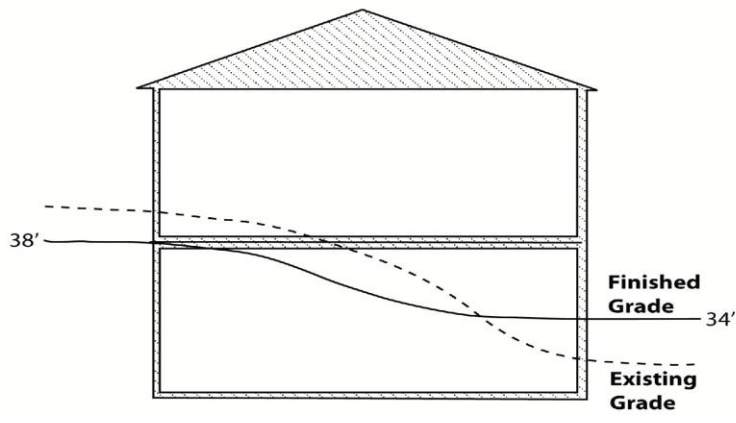
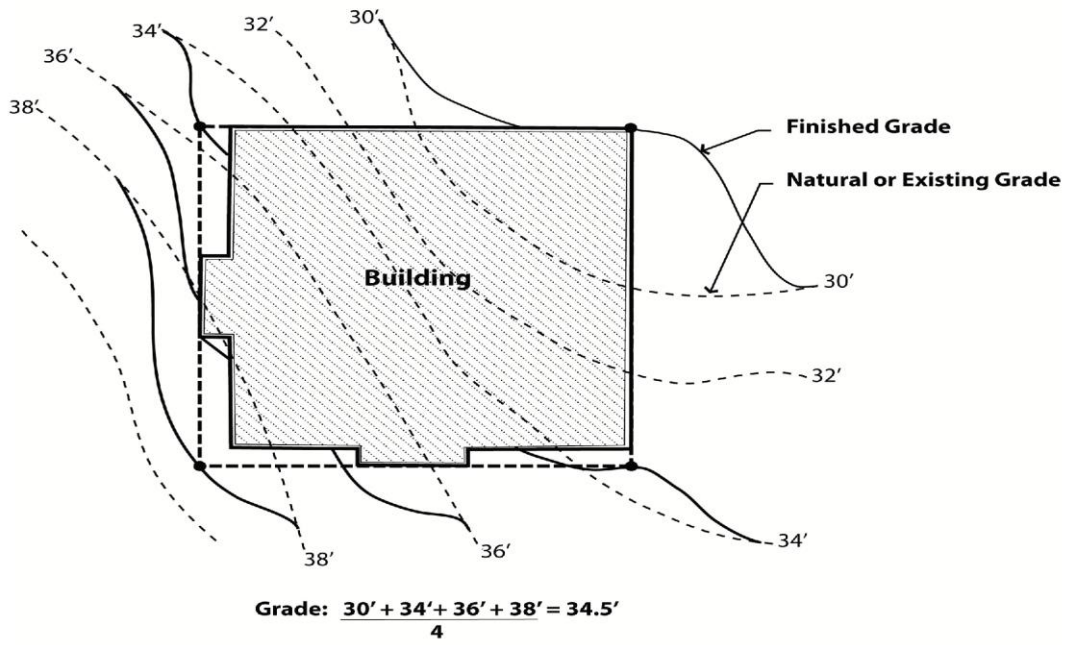
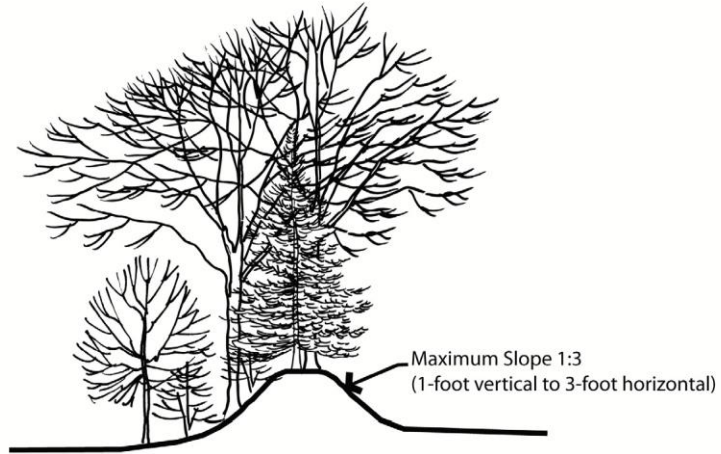


Figure 2.5 Grade

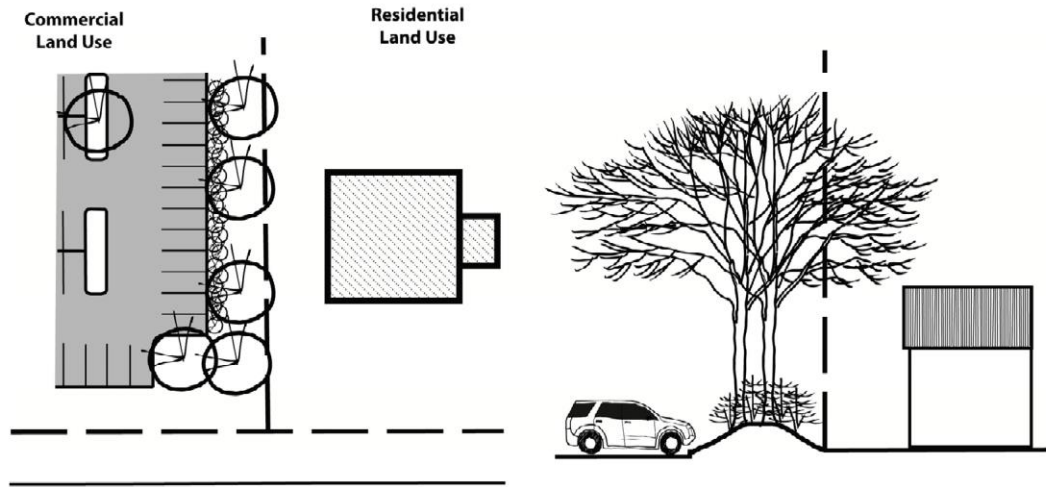


**Figure 2.6 Landscaping - Berm**

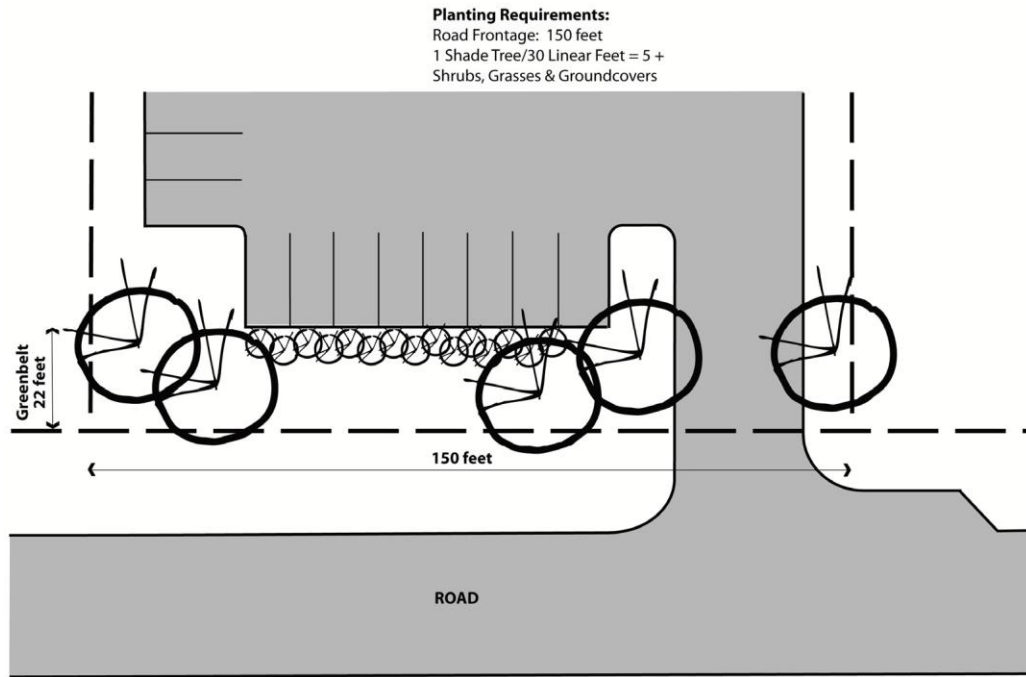


**Figure 2.7 Landscaping – Buffer**

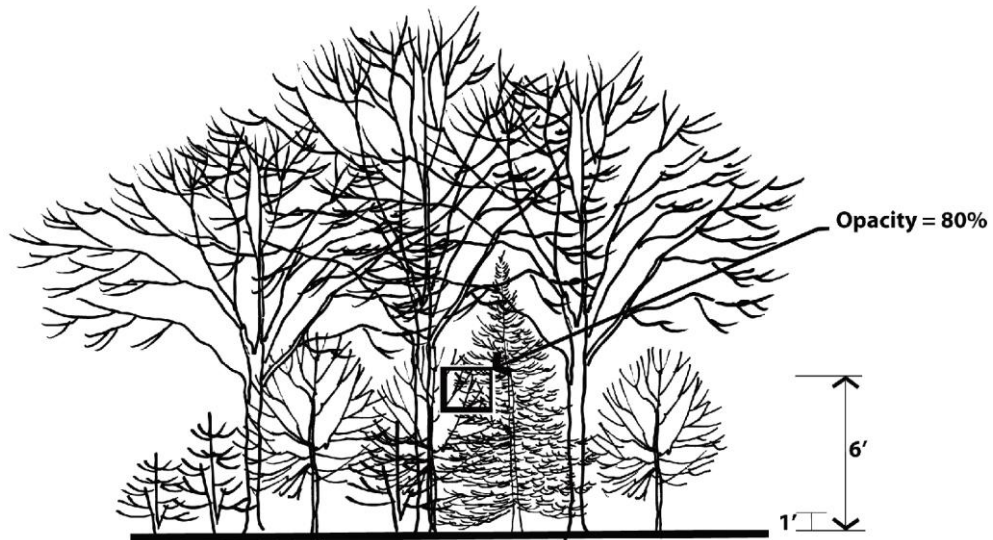
Combination of berms, solid wall or fence, dense shrubs, deciduous and evergreen trees to achieve 80% opacity at 6 feet above grade at property



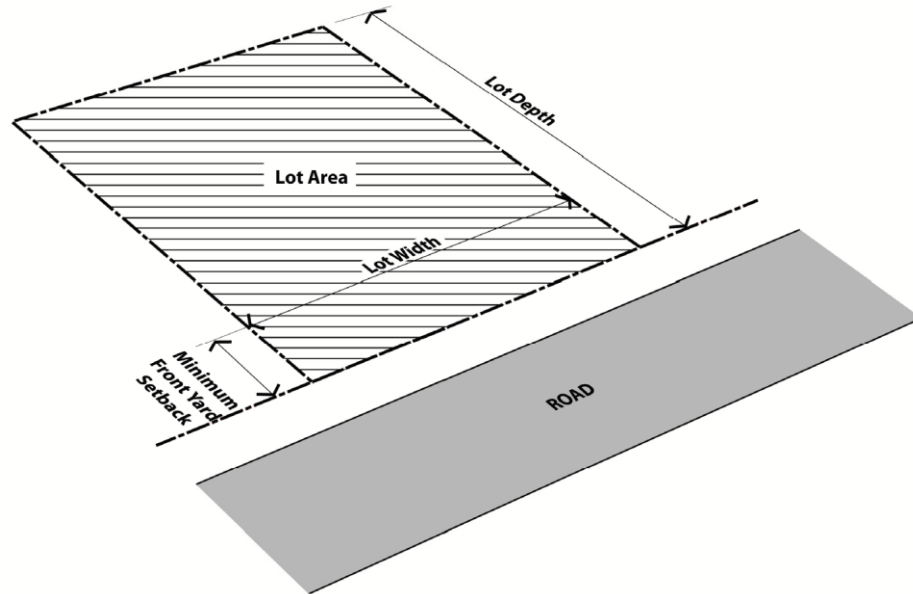
**Figure 2.8 Landscaping – Greenbelt**



**Figure 2.9 Landscaping – Opacity**



**Figure 2.10 Lot Area, Width and Depth**



**Figure 2.11 Lot Lines and Lot Frontage**

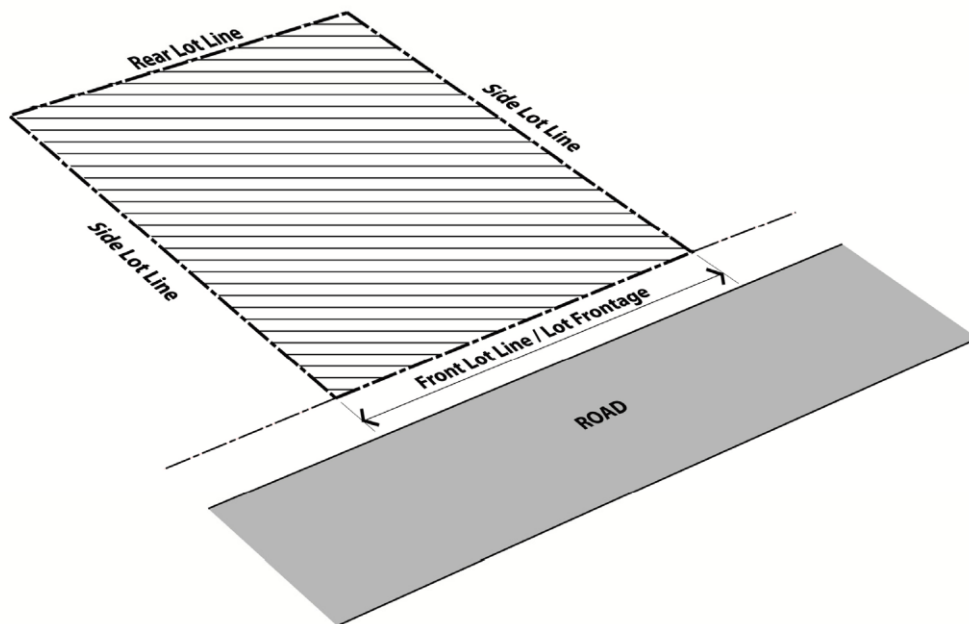
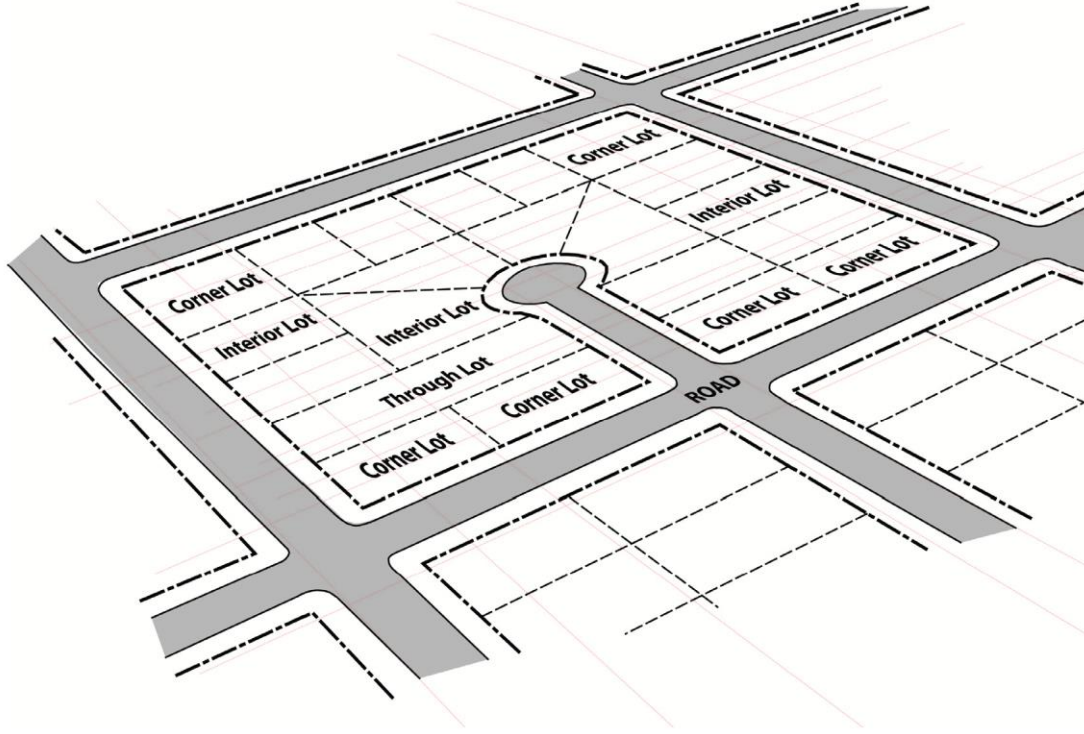


Figure 2.12 Lot Types





**Figure 2.13 Lot Type Examples**

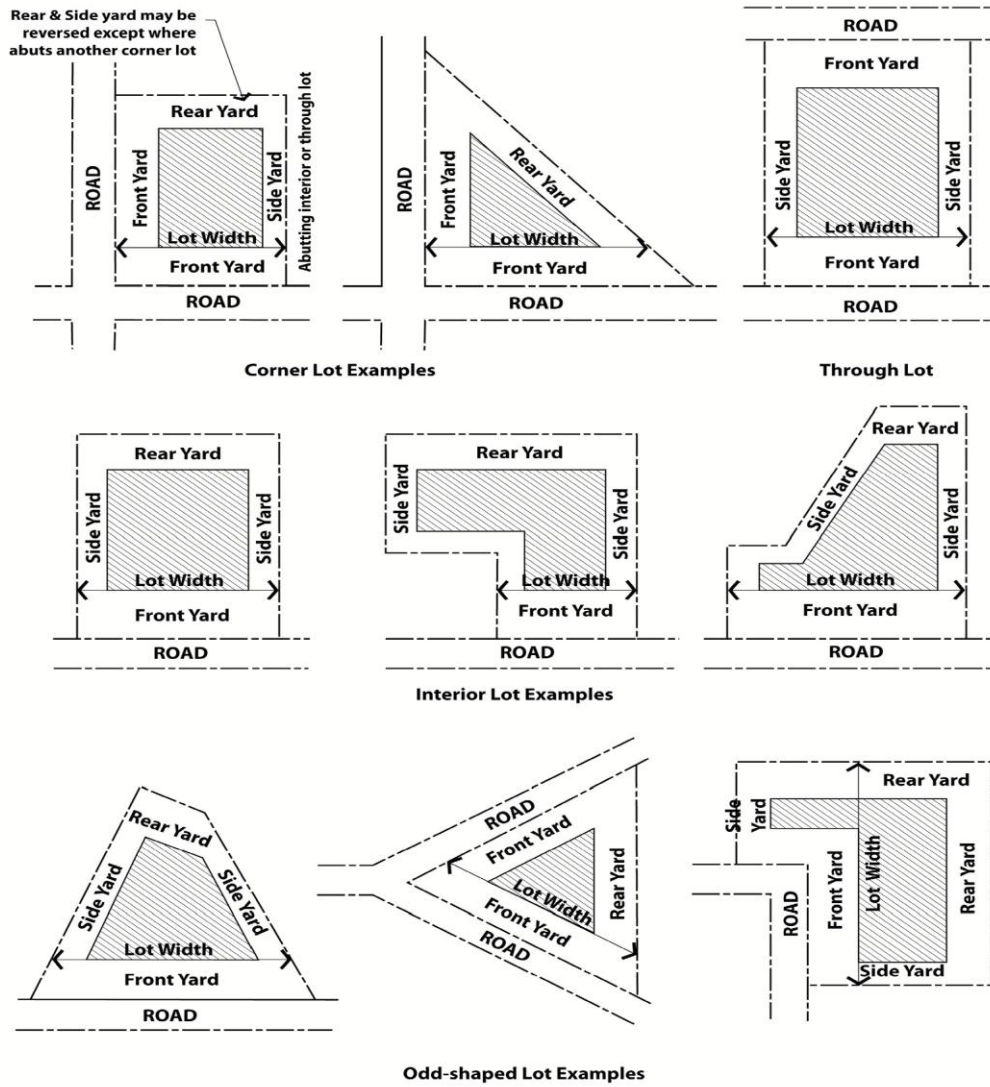


Figure 2.14 Retaining Wall

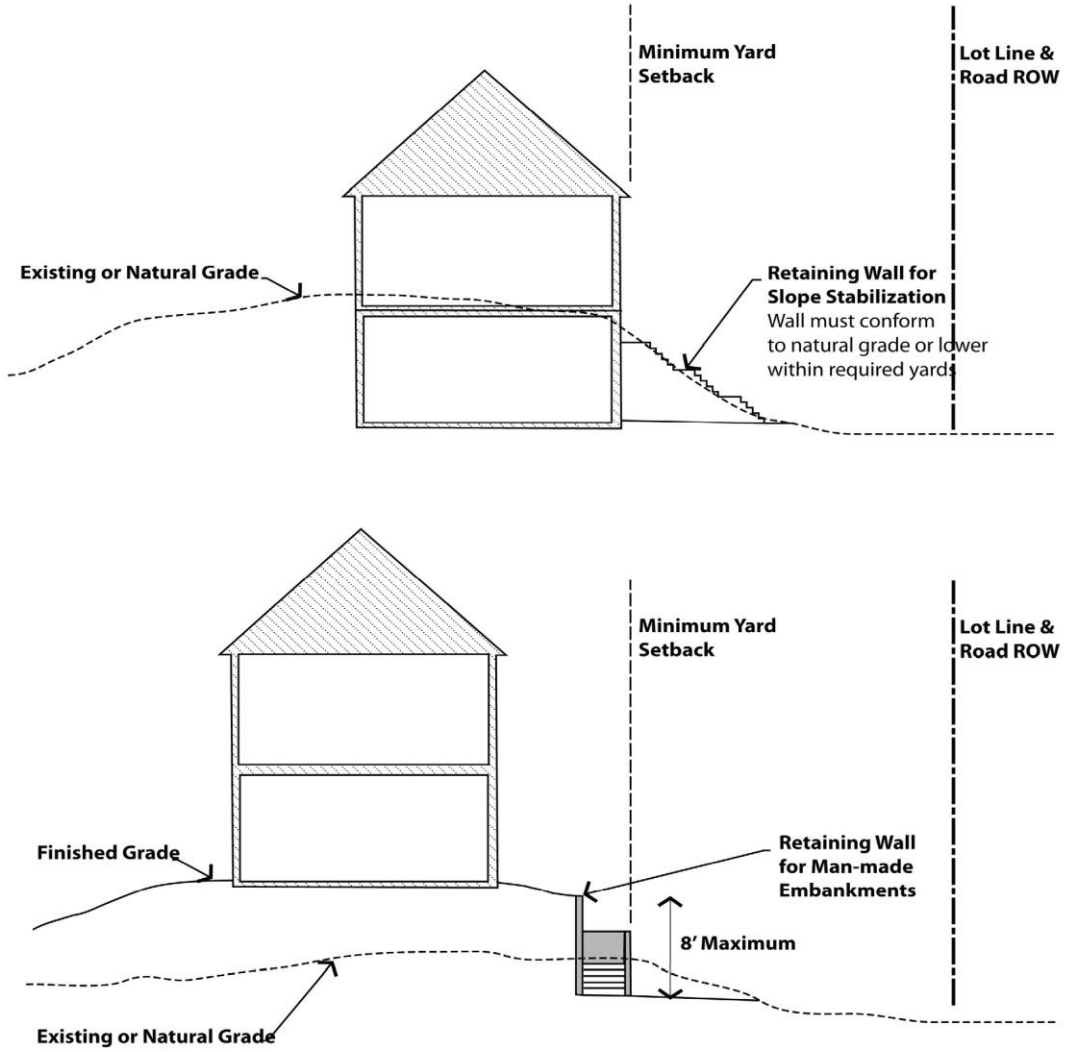


Figure 2.15 Signs

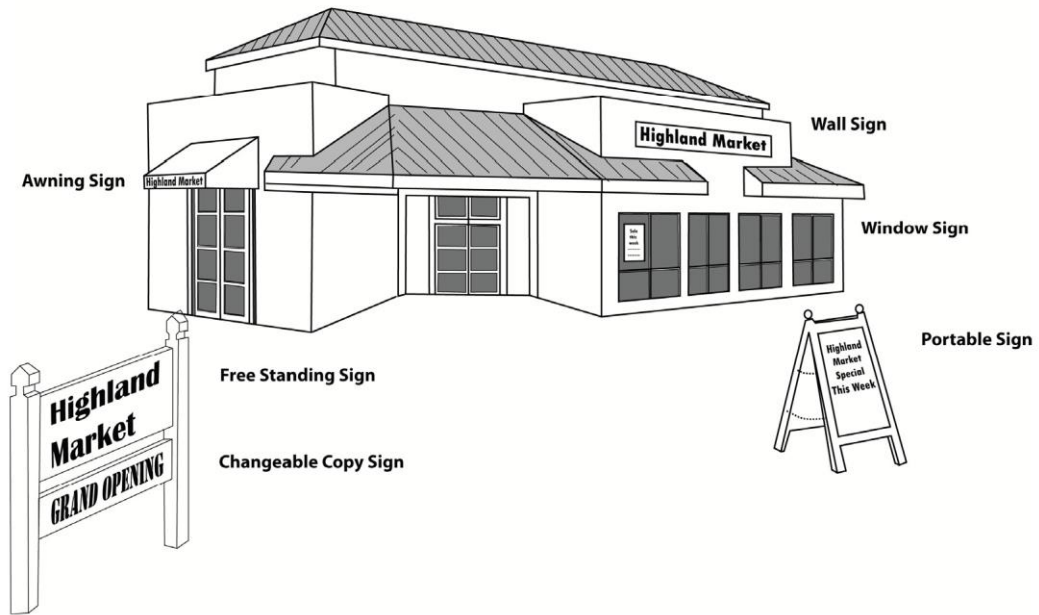
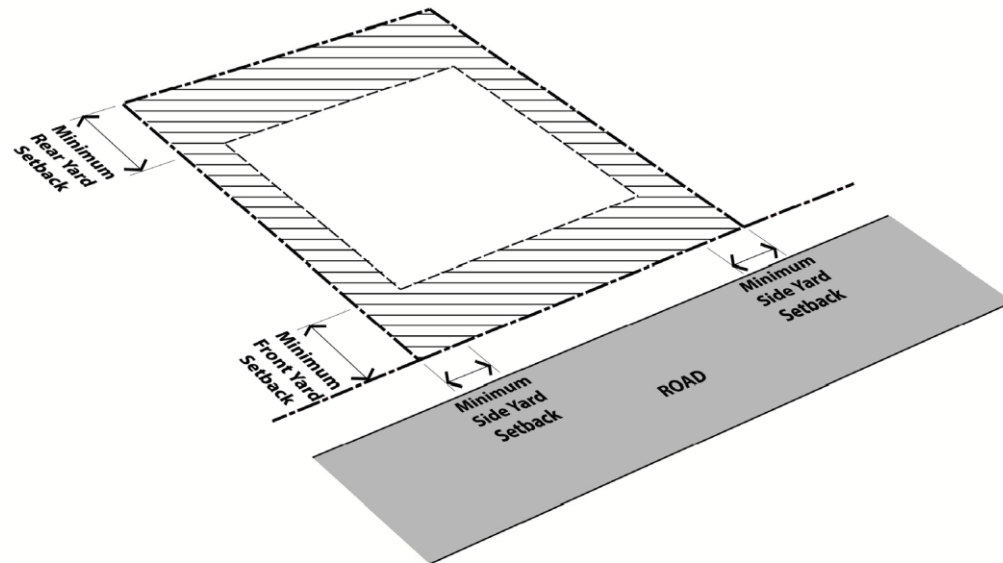
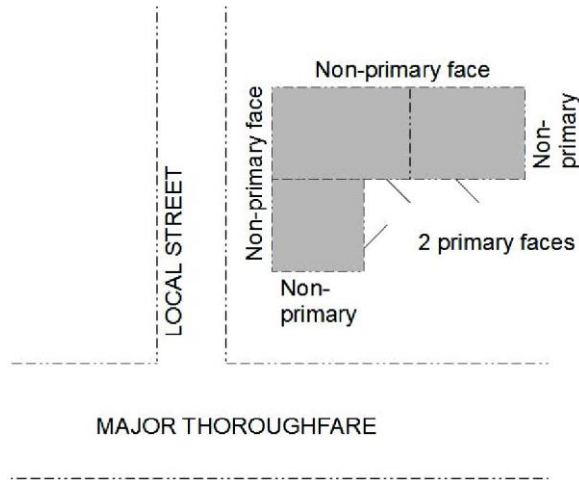


Figure 2.16 Yard Setback Lines



**Figure 2.17 Building Face(s), Primary and Non-Primary**



### **ARTICLE 3. ADMINISTRATION AND ENFORCEMENT**

#### **Sec. 3.01. Intent.**

The provisions of this ordinance shall be administered and enforced by the Zoning Administrator and/or Building Official, or by any employee, inspector, or official of the Township Board may delegate to enforce the provisions of this ordinance.

#### **Sec. 3.02. Duties of the Planning Commission.**

The Planning Commission is created pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008. In accordance with Section 83 of Public Act 33 of 2008, the Planning Commission shall have all the powers and duties provided for zoning commissions created pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. Members of the Planning Commission shall be nominated by the Township Supervisor and approved by the Township Board. The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the Planning Commission shall be in accordance with Public Act 33 of 2008.

The Planning Commission shall have the following responsibilities and authority pursuant to this Ordinance:

- A. The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding public hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the Township Board.
- B. The Planning Commission shall be responsible for review of all applications for site plan approval in accordance with Article 5, and special land use approval in accordance with Article 16, and making a determination to recommend or grant approval, approval subject to revisions, or denial of approvals.
- C. The Planning Commission shall be responsible for formulation and adoption of the Township Master Plan as a guide for the development of the Township, in accordance to Public Act 33 of 200

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### **Sec. 3.03. Duties of Zoning Administrator.**

The Zoning Administrator has the power to act on matters as provided in this Ordinance. The Zoning Administrator is authorized to make inspections of buildings and premises as necessary to carry out the duties in enforcement of this Ordinance. The duties of the Zoning Administrator can also be performed by his/her designee.

### **Sec. 3.04. Duties of the Building Official.**

The Building Official has the power to act on matters as provided in this Ordinance and the Highland Charter Township Code, as amended. The Building Official is authorized to make inspections of buildings and premises as necessary to carry out the duties in enforcement of this Ordinance. The duties of the Building Official can also be performed by his/her designee.

### **Sec. 3.05. Land Use Permit.**

- A. No new use or change of use for a building, structure or land may be established unless a Land Use Permit has first been issued. The purpose of the Land Use Permit is to ensure that a proposed use is permissible within the subject Zoning District, that other requirements of the Zoning Ordinance have been met and to ensure that the site conditions comply with any site plan approved by the Planning Commission.
- B. Applications for Land Use Permits for uses other than Class A Farm Markets and single-family dwellings shall be accompanied by a site plan approved by the Planning Commission or by a sketch plan meeting the requirements of Table 5.2, Site Plan and Sketch Plan Submittal Requirements, as appropriate.
- C. Applications for Land Use Permits for Class A Farm Markets and single family homes and accessory structures and uses (including, but not limited to, accessory structures such as sheds, pools, fences and the like) shall be accompanied by a plot plan drawn to scale, providing the following information:
  - 1. The actual shape, location and dimensions of the lot.
  - 2. The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
  - 3. The location of drives, access ways, easements, septic tanks, wells, overhead and underground utilities, and drain fields.
  - 4. The location of water bodies and water courses including the ordinary high water mark and floodplain elevations, where applicable.
  - 5. The existing and intended use of the lot and of all such structures upon it, including in residential areas, the number of dwelling units the building is intended to accommodate. The Zoning Administrator may require floor plans and elevations.
  - 6. The Zoning Administrator may require a field survey to establish locations of property lines and improvements.
  - 7. Such additional information as may be required to review the application for conformance with this ordinance and to determine that the provisions of Article 5, Site Plan Review, are not applicable.
- D. No Land Use Permit shall be issued unless the Zoning Administrator has first determined that the use is allowable within the Zoning District and complies with local, county, state and federal regulations.
- E. No Land Use Permit shall be issued unless the Zoning Administrator has first determined the minimum level of improvements necessary to bring a site into compliance with applicable zoning regulations and with any site plan approved by the Planning Commission.

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- F. No sign permits shall be issued until a Land Use permit has first been issued.

### **Sec. 3.06. Building permits.**

- A. No building permit shall be issued for the erection or alteration or use of any building or structure or part thereof unless a Land Use Permit has first been issued.
- B. No building, structure, or part thereof shall be erected, altered, moved or repaired unless a building permit is first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress or any other changes affecting or regulated by the Township, except for minor repairs or changes not involving any of these features.
- C. Any building permit granted under this section may become null and void in accordance with the building code unless the proposed development shall have passed its first building inspection and shown substantial progress within one (1) year from the date of the granting of the permit. Any building permit may be renewed in accordance with the provisions for building permit renewal set forth in the duly adopted building code of the Township.

### **Sec. 3.07. Certificates of occupancy.**

- A. No building or part thereof shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued by the Building Official.
- B. The Building Official may issue a temporary certificate of occupancy if the following conditions are satisfied:
  - 1. The applicant has posted a performance guarantee, in accordance with Section 3.09, Permit Fees and Performance Guarantees, to guarantee completion of all improvements required by ordinance, including but not limited to earthwork, paving, utilities, landscape or the approved site plan.
  - 2. The applicant and/or builder has completed the work items required by the Building Official and Zoning Administration to ensure safety.
- C. A Certificate of Occupancy shall not be issued until a land use permit has been issued, all site plan improvements are completed or the appropriate performance guarantee is posted as required in Section 3.09, Permit Fees and Performance Guarantees.

### **Sec. 3.08. Inspections.**

The construction authorized by any permit shall be subject to periodic inspections at intervals and upon completion of specific phases as determined by the Building Official. The Building Official has authority to enter the building, premises or land at any reasonable time for the purpose of conducting inspections. It shall be the duty of the permit holder to notify the Building Official when the construction is ready for inspection. Failure to provide proper notice shall be grounds for revoking a permit.

### **Sec. 3.09. Permit fees and performance guarantees.**

- A. *Fee requirements.* Fees shall be assessed and collected before permits are issued and work commences on a project to cover administration and inspection costs. These fees shall also include an escrow deposit for the inspection of all site improvements by the Building Official, Township Engineer, Township Planning Consultant and/or other designee and for refuse collection on single-family homes.
- B. *Performance guarantees.*

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1. *Form of guarantee.* The Township shall require that a cash deposit or automatically renewable irrevocable letter of credit covering the estimated cost of improvements be deposited with the Township. The guarantee shall be provided after a final site plan is approved but prior to the issuance of a land use permit
  2. *Amount of guarantee.* The guarantee shall cover site improvements as shown on the approved final site plan. Site improvements shall mean streets and drives, parking lots, sidewalks, grading, required landscaping, required screening, storm drainage, and exterior lighting and utilities. The applicant shall provide a cost estimate of the improvements to be covered by the guarantee and such estimate shall be verified as to the amount by the Township. The guarantee shall be provided in an amount equal to fifty percent (50%) of the estimated cost of the site improvements. Prior to the issuance of a temporary certificate of occupancy the applicant shall provide an updated cost estimate of the remaining, incomplete site improvements. The guarantee shall be provided in an amount equal to one hundred fifty percent (150%) The form of the guarantee and expiration date shall be approved by the Township.
  3. *Right to enter property and complete improvements.* If the applicant shall fail to provide any site improvements according to the approved plans within the time period specified in the guarantee, the Township shall be entitled to enter upon the site and complete the improvements. The Township may defray the cost thereof, plus an administrative fee, from the deposited performance guarantee.
  4. *Proportional rebates.* The applicant may request that a rebate be made when a reasonable proportion of the work is completed, as determined by the Township. No more than ninety percent (90%) of the original guarantee amount shall be released until the final improvements are completed. At no time shall the amount of the performance guarantee be reduced to less than one hundred-fifty percent (150%) of the cost to complete site improvements.

### **Sec. 3.10. Expiration of land use approvals.**

- A. All land use approvals, including, but not limited to site plan, sketch plan, change of occupancy, special land use, and planned unit development approvals shall expire two (2) years from the date of final approval unless occupancy has been established or substantial construction has been completed on the project.
- B. If the land use approval expires, no extension may be granted, but the applicant may apply for a new approval.
- C. In the event that a residential open space or mixed use planned unit development approval has expired, the Township Board, based on a recommendation from the Planning Commission, shall be authorized to rezone the property pursuant to normal zoning procedures

### **Sec. 3.11. Public hearing notice.**

In instances where a public hearing is required under state law the Township Board, Planning Commission, or the Zoning Board of Appeals shall provide notice as required by the Michigan Zoning Enabling Act, as amended.

### **Sec. 3.12. Development agreements.**

- A. Prior to approval of a site plan, residential cluster development (RCD), residential open space planned unit development (RPUD), mixed use planned unit development (MPUD), site specific relief or a conditional rezoning, an applicant shall execute a development agreement, in a form approved by the Township, specifying all the terms and understandings relative to the proposed development. All costs incurred by the Township, including attorney fees, in drafting and approving the development agreement shall be paid by the applicant.

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- B. The content of the agreement shall outline the specifics of the proposed development, but shall at a minimum provide the following terms:
1. A survey of the acreage involved in the proposed development;
  2. A description of the ownership of the subject property;
  3. A land use description, including a specific description of the proposed uses, density, lot dimensions, setbacks, and other dimensional standards;
  4. Proposed method of dedication or mechanism to protect areas designated as common areas, open spaces, or conservation areas;
  5. Description of required improvements to common areas, recreational facilities and non-motorized pathways;
  6. General description of any improvements to roads or utilities;
  7. Mechanisms to ensure the continued maintenance of common areas, including but not limited to roadways, sidewalks, lighting, landscaping, utilities and other site improvements;
  8. Provisions assuring that open space areas shown on the plan for use by the public or residents of the development will be irrevocably committed for that purpose. The Township may require conveyances or other documents to be placed in escrow to accomplish this;
  9. Provisions for the future financing of any improvement shown on the plan as site improvements, open space areas and common areas, which are to be included within the development, and that maintenance of such improvements is assured by means satisfactory to the Township;
  10. Provisions to ensure adequate protection of natural features;
  11. Financial assurances in accordance with Section 3.09.B Performance Guarantees to guarantee the completion of all site improvements;
  12. Requirements that the applicant maintain insurance coverage during development in amounts established by the Township, naming the Township as an additional insured, and further, required insurance provisions after the development is completed;
  13. The site plan, RCD plan, RPUD plan, MPUD plan, SLU, site specific relief or conditional rezoning sketch plan shall be incorporated by reference and attached as an exhibit;
  14. Description of the timing to complete the development of the project. If the project is to be developed in phases, a timeline to complete the construction of each phase;
  15. An acknowledgement by the applicant that the terms and conditions of the approval are fair, reasonable and equitable, and that the terms and conditions do not violate any constitutional rights, and that the applicant freely agrees to be bound by each and every condition and provision of the development agreement.

### **Sec. 3.13. Violations.**

Any person who violates any provision of this Ordinance, or who fails to comply with any of the regulatory measures or conditions of the Zoning Administrator, Building Official, Planning Commission or the Township Board issued pursuant to this Ordinance, is responsible for a municipal civil infraction. The sanction of a violation includes payment of a civil fine as specified in Section 1.10 of the Highland Charter Township Code, plus costs and other sanctions for each infraction. Each day such violation continues shall be deemed a separate offense. Repeat offenses shall be subject to increased fines as provided by Section 1.10 of the Highland Charter Township Code.



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**Sec. 3.14. Nuisance per se.**

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this ordinance and in violation of any of the provisions thereof is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction.

**Sec. 3.15. Fines.**

The owner of any building, structure or premises or part thereof, where any condition in violation of this ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate municipal civil infraction and shall be sanctioned accordingly.

**Sec. 3.16. Rights and remedies are cumulative.**

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

**ARTICLE 4. DISTRICT REGULATIONS**

**Sec. 4.01. Establishment of districts.**

Highland Township is hereby divided into Zones or Districts as shown on the Official Zoning Map and shall include the following:

ARR	Agricultural & Rural Residential
R-3	Single-family Residential - 3 Acres
R-1.5	Single-family Residential - 1.5 Acres
LV	Lake and Village Residential
RM	Multiple-family Residential
MH	Manufactured Home Park
OS	Office Service
C-1	Local Commercial
C-2	General Commercial
HS	Highland Station
TR	Technology Research
IM	Industrial Manufacturing

**Sec. 4.02. Map.**

The boundaries of the districts set forth in Section 4.01, Establishment of Districts, are shown upon the map attached hereto and made a part of this Ordinance which map is designated as the Official Zoning Map of the Township of Highland. The Zoning Map, along with all notations, references and other explanatory information, are available at the Highland Township offices.

**Sec. 4.03. Interpretations of district boundaries.**

Where uncertainty exists with respect to the boundaries of any district indicated on the Official Zoning Map, the following rules shall apply:

- A. Except where reference on the Official Zoning Map to a street or other designated line by the dimensions shown on said Map, the district boundary lines follow lot lines or the centerlines of the street, alleys, railroads, or such lines extended and the corporate limits of the Township as they existed at the time of the adoption of this Ordinance.
- B. Where a district boundary line, as established at this Section or as shown on said Map, divides a lot which was in a single ownership and of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot, under this Ordinance, shall be considered as extending to the entire lot, provided that the more restricted portion of such lot is entirely within twenty-five (25) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- C. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in the shoreline shall be construed as following the shoreline existing at the time the

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interpretation is made. The boundary indicated as following the centerline of a stream or river, canal, lake or other body of water shall be construed as following such centerline.

- D. Where a physical or cultural feature existing on the ground varies from that shown on the Official Zoning Map or any other circumstances not covered by A through C preceding, the Zoning Board of Appeals shall interpret the location of the zoning district boundary.

#### **Sec. 4.04. District intent and uses.**

- A. The Districts set forth herein guide the establishment of district boundaries to further the objectives of the Master Land Use Plan. The intent of each district defines interrelationships between conflicting and compatible land uses and between land uses and resources such as transportation, utilities, cultural and institutional facilities and the natural environment.
- B. Uses of land, buildings or structures for purposes that are prohibited by or are contrary to federal, state or local regulations and ordinances are expressly prohibited in any zoning district within the Township. Notwithstanding, and in accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d), the following are exempt from this prohibition:
1. Medical marihuana activities by a registered qualifying patient as defined in the Michigan Marihuana Act, PA 2008, Initiated Law, subject to Section 18.12.160;
  2. Medical marihuana activities, including the provision of services to a qualifying patient by a primary caregiver as defined in the Michigan Medical Marihuana Act, PA 2008, Initiated Law, subject to 18.12.160.
- C. Except as hereinafter provided, district regulations shall be applied in the following manner:
1. *Permitted uses.* Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning districts or are similar to such listed uses.
  2. *Accessory uses and buildings.* Accessory uses and buildings are permitted only if such uses are clearly incidental to the permitted principal uses. Accessory uses and buildings shall not be established or constructed prior to construction of the principal building or establishment of the principal use to which it is accessory.
  3. *Special land uses.* Special land uses are permitted as listed, subject to the procedures set forth in Article 6.
  4. *Expressly prohibited uses.* Medical marihuana provisioning centers, safety compliance facilities, dispensaries, cooperatives, joint or shared growing facilities, and any other operation or facility similar in nature are expressly prohibited.
- D. If a proposed use is not explicitly listed, the Zoning Administrator shall make a determination as to which listed use the proposed use is most similar to and compatible with, and in which district(s) said use shall be permitted. The Zoning Administrator may refer any proposed use to the Zoning Board of Appeals for determination of the appropriate district(s) in which said use may be permitted. In making this determination, the Zoning Administrator or the Zoning Board of Appeals shall consider factors such as peak hourly and average daily traffic generation, noise, light, demands on public utility systems, potential environmental impacts, and compatibility and consistency with other permitted land uses in the district.

( Ord. No. Z-005, § 2, 3-11-2015 )

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#### **Sec. 4.05. Agricultural & Rural Residential District (ARR).**

- A. *Intent.* The ARR Zoning District is intended for those areas under active cultivation, pasturage or other agricultural uses. The ARR Zoning District is primarily composed of large open land areas and wooded areas. It is the Township's desire to preserve agricultural lands and to permit operations typical of agricultural properties or to retain the natural environment. Uses will be predominantly residential, even though farming still exists. Even where land is not considered a "farm," residents in the ARR District have made a lifestyle choice. Areas designated as State Lands, County or Township open space, or recreational opportunities are also located in the ARR District.
- B. *Permitted uses.*
1. Single-family detached dwelling.
  2. Farming, general and specialized, including but not limited to nurseries, greenhouses, equestrian and other large animal husbandry, poultry raising, bee-keeping and similar bona fide agricultural enterprises and the usual agricultural buildings and structures, including Class A and Class B Farm Markets.
  3. Foster Care Home, Child.
  4. Foster Care Facility, Adult except congregate facilities.
  5. Family child care homes.
  6. Manufactured detached dwelling, subject to Section 8.13, Manufactured Housing Standards.
  7. Parks and playgrounds, private for the use of residents in subdivisions and other residential developments.
  8. Residential Cluster Development subject to Section 7.01.
  9. Accessory dwelling units subject to Article 8.05.
  10. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.
  11. Temporary buildings, dwellings, structures and uses, subject to Section 8.04.
  12. Home occupations, subject to Section 8.06.
- C. *Special land uses.*
1. Adult Day Care Center, subject to 10.09.
  2. Adult Day Care Home subject to Section 10.02.
  3. Bed and breakfast establishments subject to Section 10.05.
  4. Campgrounds, subject to Section 10.07.
  5. Cemeteries subject to Section 10.08.
  6. Child Care Center, subject to 10.09.
  7. Class C Farm Market Event Venues subject to Section 10.13.
  8. Equestrian sports academies, subject to Section 10.12.
  9. Golf courses, Par 3's and golf driving ranges subject to Section 10.14.
  10. Group Child Care Home, 10.15.

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11. Institutional uses small and large scale, subject to Section 10.17.
  12. Kennels subject to Section 10.18.
  13. Large animal veterinary clinics and hospitals subject to Section 10.19.
  14. Municipal parks, playgrounds and other recreational facilities.
  15. Mineral Extraction and Mining subject to Section 10.26.
  16. Wireless communication facilities subject to Section 10.24.
  17. Reserved.
  18. Yard waste composting facilities subject to Section 10.25.

( Ord. No. Z-005, § 2, 3-11-2015 )

#### **Sec. 4.06. Residential Districts (R-3, R-1.5, LV).**

A. *Intent.* It is the intent of these districts to provide for single-family detached residential development in Highland Township at varying densities which are consistent with the existing and desirable future pattern of development in the Township. It is the goal of the Township to protect single-family residential development from the encroachment of incompatible land uses. The Residential R-3, R-1.5 and LV Zoning Districts are distinguished by varying residential densities to accommodate a wide range of existing and future residential preferences in the Township.

The R-3 and R-1.5 Districts are intended for lower density rural residential development. The R-3 and R-1.5 Districts are designated in the northern, western and southern portions of the Township, consistent with the Township Master Plan. Restricting these areas to lower density use will help ensure that the majority of future development occurs in the central portion of the Township, where public services can be more economically provided.

The LV - Lake and Village, Residential Zoning District consists of historical small lot settlements around the lakes as well as developments within the Township. LV regulations are intended to preserve established development patterns. No new LV Districts shall be created in the Township, except that new parcels within the LV Zoning District may be created through land division and combination.

B. *Permitted uses.*

1. Single-family detached dwelling.
2. Foster Care Home, child.
3. Foster Care Facility, Adult except congregate facilities.
4. Family Child Care Homes.
5. Manufactured detached dwelling, subject to Section 8.13, Manufactured Housing Standards.
6. Parks and playgrounds, private for the use of residents in subdivisions and other residential developments.
7. Residential Cluster Development subject to Section 7.01.
8. Accessory dwelling units subject to Article 8.05.
9. Accessory structures and uses customarily incident to permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.
10. Temporary buildings, dwellings, structures and uses, subject to Section 8.04.

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11. Home occupations, subject to Section 8.06.

C. *Special land uses.*

1. Adult Day Care Center, subject to 10.09.
2. Adult Day Care Home, subject to Section 10.02.
3. Bed and breakfast establishments subject to Section 10.05.
4. Boat launching facilities for a residential development or when operated as a private club, subject to Section 10.06.
5. Cemeteries subject to Section 10.08.
6. Child Care Centers subject to Section 10.09.
7. Group child care homes subject to Section 10.15.
8. Institutional uses small scale, subject to Section 10.17.
9. Municipal parks, playgrounds and other recreational facilities.

( Ord. No. Z-005, § 2, 3-11-2015 )

**Sec. 4.07. Multiple-Family Residential District (RM).**

A. *Intent.* The RM Multiple-Family Residential District regulations are intended to provide for multiple dwelling units and duplexes at a density consistent with available infrastructure and land capacities, while providing a variety of housing options other than the single-family home. The Multiple-Family Residential District is to be located primarily in areas where municipal sanitary sewer and water service, fire and police protection can be readily provided and in near proximity to shopping centers, the Highland Station District and major thoroughfares. Generally, the regulations of this district are intended to:

1. Provide a safe and convenient living environment that encourages an active lifestyle.
2. Prevent overcrowding by establishing minimum standards for unit size, spacing between buildings, private and public open space and other bulk and area considerations.
3. Require high standards in housing developments so that attractive neighborhoods, quality housing design and construction and open space with appropriate amenities result.
4. Allow for a mixture of residential units to address the housing needs and preferences of individuals across a wide range of demographic factors, such as income, age, health and household size.
5. Protect natural features such as open areas, lakes, woodlands, wetlands, steep slopes and natural habitat that contribute to the overall quality of life.

B. *Permitted uses.*

1. Multiple-family dwelling, whether they are owned by a single entity or owned individually as part of a condominium project.
2. Community living facility.
3. Single-family attached dwellings (such as duplexes and quad-plexes).
4. Community buildings incidental to the multiple-family development.
5. Family child care homes.
6. Foster care facilities, adult or child.

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7. Home occupations, subject to Section 8.06.

C. *Special land uses.*

1. Adult Day Care Home, subject to 10.02.
2. Bed and breakfast establishments subject to Section 10.05.
3. Skilled nursing care facilities and homes for the aged subject to Section 10.11.
4. Group Child Care Home, subject to Section 10.15.
5. Hospitals, convalescent and extended health care facilities, subject to 10.16.
6. Institutional uses small scale, subject to Section 10.17.

( Ord. No. Z-005, § 2, 3-11-2015 ; Ord. No. Z-014 , § 2, 6-12-2019)

**Sec. 4.08. Manufactured Home Park District (MH).**

A. *Intent.* The purpose of the MH Manufactured Home District is to provide for mobile home parks, and to require that such mobile home parks be developed with the character of residential neighborhoods. This ordinance recognizes that mobile homes in mobile home parks require locations, services, and facilities similar to any other single-family and multiple-family dwelling units that are developed at higher densities. It is further the intent of this ordinance that various supporting uses common to higher density residential areas, as well as those that are unique to mobile home communities, be permitted in this district.

B. *Permitted uses.*

1. Manufactured homes located in manufactured home parks subject to Section 9.06.
2. Management office, laundry facilities, indoor and outdoor recreation areas and facilities, meeting rooms, and similar uses and structures provided to serve only the residents of a mobile home park and their invited guests.
3. Foster Care Home, Child.
4. Foster Care Facility, Adult - except congregate facilities.
5. Family Child Care Homes.
6. Home occupations, subject to Section 8.06.

C. *Special land uses.*

1. None are allowed.

( Ord. No. Z-005, § 2, 3-11-2015 )

**Sec. 4.09. Office Service District (OS).**

A. *Intent.* The intent of the OS Office Service District is to provide locations for low intensity uses which primarily include office uses, business and personal services uses which are dependent on and supportive of an office environment. The Office Service District is intended to provide transitions which may be located between residential areas and commercial areas and/or residential areas and thoroughfares. A limited range of service uses are permitted for the benefit of office personnel, tenants and visitors, provided that offices remain the predominant use within the district. The district shall be characterized by uses which: generally operate during normal business hours; produce a low volume of traffic; are a compatible transitional use

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between commercial and residential areas and/or between thoroughfares and residential areas; and are located in buildings which are architecturally compatible with the residential community.

B. *Permitted uses.*

1. Financial institutions.
2. Office buildings for the use of any of the following lower-intensity occupations: accounting, administrative, architectural, clerical, engineering, legal, municipal, professional, writing, sale representatives and travel agencies.
3. Medical and dental offices, including clinics, medical laboratories, Massage Therapy establishments subject to Section 10.20 and counseling centers.
4. Training and/or educational centers to provide training at the business, technical and/or professional level for uses similar to permitted uses.
5. Veterinary clinics and hospitals, including accessory boarding and accessory pet day care. No outdoor exercise runs or pens are permitted.
6. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.

C. *Special land uses.*

1. Accessory dwelling units subject to Subsection 8.05.B.
2. Adult Day Care Centers, subject to Section 10.02.
3. Bed and breakfast establishments subject to Section 10.05.
4. Child Care Centers subject to Section 10.09.
5. Drive-through facilities for permitted uses.
6. Institutional uses small scale, subject to Section 10.17.
7. Personal service uses of a lower-intensity including: barber and beauty shops, artist, music and photography studios.
8. Wireless communication facilities subject to Section 10.24.1.

(Ord. No. Z-010, § 1, 10-11-2017)

**Sec. 4.10. Local Commercial District (C-1).**

A. *Intent.* The intent of the C-1 Local Commercial District is to permit development of commercial areas consisting of uses that are typical of convenience shoppers, personal services and office uses. These commercial areas are intended to serve residential areas located in close proximity. The land use restrictions in the C-1 District are intended to ensure that development will be reasonably compatible with adjacent residential areas. Properties zoned C-1 are typically of a small size in Highland Township.

B. *Permitted uses.*

1. Permitted uses in the OS District.
2. Amusement establishments such as electronic gaming arcades, pool halls, bowling alleys and similar uses.
3. Dry cleaning and laundromat.



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4. Fitness facilities, such as aerobic, dance and gymnastic studios, and exercise centers.
  5. Funeral homes and mortuaries, not including crematoriums.
  6. Personal service establishments performing services on the premises, such as barber and beauty shops, watch and shoe repair, tailor shops, artist, music and photography studios, travel agencies, locksmiths and similar establishments.
  7. Restaurants and catering.
  8. Shops for the retail sale of baked goods, banquet equipment rental, beverages, books, boutiques, clothing, confections, drugs, flowers, food, gifts, hardware, hobby equipment, jewelry, notions, paint, party supplies, periodicals, small household-related products (appliances) and tobacco.
  9. Wireless communication facilities subject to Section 10.24.
  10. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.

C. *Special land uses.*

1. Accessory dwelling units subject to Subsection 8.05.B.
2. Adult Day Care Centers, subject to Section 10.02.
3. Pet Care Facility subject to Section 10.29.
4. Automotive parts and accessory stores not including installation of the parts sold on the premises.
5. Banquet facilities, and private meeting halls, lodges or clubs.
6. Bed and breakfast establishments subject to Section 10.05.
7. Child care centers subject to Section 10.09.
8. Drive-through facilities for permitted or special land uses.
9. Gas stations.
10. Golf driving ranges, par 3 courses and miniature golf courses subject to Section 10.14.
11. Hospitals, convalescent and extended health care facilities, subject to Section 10.16.
12. Institutional use small scale subject to Section 10.17.

( Ord. No. Z-005, § 2, 3-11-2015 ; Ord. No. Z-010, § 1, 10-11-2017)

**Sec. 4.11. General Commercial District (C-2).**

A. *Intent.* The intent of the C-2 General Commercial District is to provide suitable locations for higher-intensity retail, service and office establishments than uses normally permitted in the C-1 Local Commercial District. The C-2 District includes larger areas suitable for shopping centers and large-scale commercial developments. Automobile sales, service stations, banquet facilities, general retail, and retail development and other sales and service uses are appropriate and are accommodated for in the C-2 District.

B. *Permitted uses.*

1. Permitted uses in the C-1 and OS districts.
2. Automobile, recreational vehicle, heavy equipment and commercial vehicle dealerships and rental agencies, subject to Section 10.27.

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3. Automobile oil changing shop, gas stations, parts and accessory stores and washing facilities, full and self-service.
  4. Banquet facilities, private meeting halls, lodges or clubs.
  5. Drive-throughs for permitted uses.
  6. General commercial uses such as grocery stores, home improvement stores, garden supply stores, department stores, sporting goods stores, furniture stores, and clothing stores.
  7. Institutional uses small and large scale, subject to Section 10.17.
  8. Indoor shooting and archery ranges.
  9. Movie Theater.
  10. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.

C. *Special land uses.*

1. Accessory dwelling units subject to Subsection 8.05 B.
2. Adult day care centers subject to Section 10.02.
3. Adult oriented businesses and other regulated uses subject to Section 10.03.
4. Automobile repair and collision repair facilities.
5. Bed and breakfast establishments subject to Sections 10.05.
6. Child care centers subject to Section 10.09.
7. Golf driving ranges, par 3 courses and miniature golf courses subject to Section 10.14.
8. Hospitals and extended health care facilities, subject to Section 10.16.
9. Hotels and motels.
10. Kennels subject to Section 10.18.
11. Taxidermies, subject to Section 10.23.
12. Pet Care Facility subject to Section 10.29.
13. Self-storage facilities, including one (1) dwelling for a caretaker, subject to Section 10.30.
14. Community living facility subject to Section 10.30.

( Ord. No. Z-005, § 2, 3-11-2015 ; Ord. No. Z-010, § 1, 10-11-2017; Ord. No. Z-014, § 2, 6-12-2019)

**Sec. 4-11.1. Low-Impact Commercial District (C-3).**

A. *Intent.* The intent of the C-3, Low-Impact Commercial District is to provide suitable locations for businesses that rely on outdoor space to support their services and to allow for a variety of transitional uses that might provide a buffer between commercial and residential uses. Properties eligible for such designation would be situated at the fringe of existing commercial zones, but would be less desirable for single family residential development due to site constraints such as utility conflicts, environmental concerns. These properties are not intended to have access to municipal water or sanitary sewer service.

B. *Permitted uses.*

1. Commercial kitchens and catering kitchens (for direct consumption offsite).

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2. Facilities for service contractors such as appliance repair/installation, electrical, plumbing, hvac, and carpentry including offices, workshops, garages and warehouses provided that [there] is no onsite showroom or retail sales. Such uses are subject to Section 10.31.
  3. Self-storage facilities, including one (1) accessory dwelling for a caretaker.
  4. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.

C. *Special land uses.*

1. Greenhouses, retail nurseries, landscaping supply and landscaping contractors.
2. Golf driving ranges, batting cages, athletic fields, skateboard parks and non-motorized bicycle courses.
3. Inventory overflow lots for new or used automobile, boat, tractor and recreational vehicle dealerships, excluding the storage of damaged, or inoperable vehicles, and/or those waiting for repair, including one (1) accessory dwelling for a caretaker, subject to Section 10.32.
4. Crematoriums and cemeteries (including pet cemeteries).
5. Pet care facilities and boarding subject to Section 10.29.
6. Retreat/wellness centers.
7. Community living facilities subject to Section 10.30.
8. Skilled nursing care facilities and homes for the aged subject to 10.11.
9. Utility scale solar farms subject to Section 10.33.

( Ord. No. Z-013 , § 1, 10-9-2019)

#### **Sec. 4.12. Highland Station District (HS).**

- A. *Intent.* The intent of the HS Highland Station District is to provide a lively, inviting and identifiable community core in Highland Township. It is envisioned that this zoning district would permit residential, commercial and public land uses in a walkable environment. Other elements are intended to further enhance the district such as streetscape features, public open space amenities and architectural character.

Development patterns shall be guided by the Historic Highland Station Master Plan adopted by the Planning Commission on March 6, 2008, the Historic Highland Station Design Guidelines adopted by the Planning Commission on October 16, 2008, and other guidance documents that might be adopted by resolution of the Planning Commission. The Planning Commission and/or Planning staff will seek the recommendation of the Highland Downtown Development Authority when reviewing site plans and/or permit applications.

The Objectives include the Design Goals listed in the Historic HS Design Guidelines, Page 1 of the Introduction, and the following:

1. Provide for a mix of housing types, costs and ownership opportunities.
2. Provide for site design flexibility to encourage shared site improvements and cross access through a series of marginal access driveways and pathways.
3. Promote site design characteristics that encourage greater pedestrian traffic, and reinforce pedestrian safety, comfort and convenience.
4. Provide pathways for pedestrians, cyclists and equestrians that include linkages to neighborhoods and developments outside the core area of Highland Station.

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B. *Permitted uses.*

1. Single-family homes.
2. Two (2) family residential duplex homes.
3. Apartments and townhouses up to a maximum of eight (8) dwelling units.
4. Bed and breakfast establishments.
5. Family child care homes.
6. Foster care facilities, adult or child.
7. Office buildings for the use of any of the following lower-intensity occupations: accounting, administrative, architectural, clerical, engineering, legal, municipal, professional, writing, sale representatives and travel agencies.
8. Financial institutions.
9. Personal service establishments such as barber and beauty shops, locksmith, tailor shops, watch and shoe repair, artist, music and photography studios, and similar establishments.
10. Fitness facilities, such as aerobic, dance and exercise and gymnastic studios.
11. Shops for the retail sale of baked goods, banquet equipment rental, beverages, books, confections, drugs, flowers, food, gifts, hardware, hobby equipment, jewelry, notions, paint, party supplies, periodicals, small household-related products and tobacco, except that drive-throughs are permitted only by Special Land Use approval.
12. Restaurants and food-related activities not to exceed three thousand (3,000) square feet maximum.
13. Municipal parks, playgrounds and other community facilities.
14. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.

C. *Special land uses.*

1. Amusement establishments such as electronic gaming arcades, pool halls, bowling alleys and similar uses.
2. Institutional uses small scale, subject to Section 10.17.
3. Medical and dental offices, including clinics, medical laboratories, massage therapy establishments subject to Section 10.20 and counseling centers.

**Sec. 4.13. Technology and Research District (TR).**

A. *Intent.* The TR Technology and Research District is designed primarily to accommodate research and development facilities and corporate office parks, and low intensity, light industrial uses. These uses are characterized by spaces needed for office, research, design, service, assembly, testing and packaging for small components for distribution. The uses shall have limited impact outside of the industrial building to protect the surrounding districts. It is further intended that the processing of raw material or shipment in bulk form, to be used in an industrial operation at another location, not be permitted.

B. *Permitted uses.*

1. Data processing and computer centers, including service and maintenance of electronic data processing equipment.

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2. Design and development of computer hardware and software, data communications, information technology, data processing and other computer related services.
  3. Indoor shooting and archery ranges.
  4. Offices for accounting, administrative, brokerage, clerical, drafting, executive, insurance, professional, writing, and sales representatives.
  5. Printing and publishing.
  6. Research, design, engineering, testing, diagnostics and pilot or experimental product development, including automotive, electronic device, manufacturing materials and alternative energy technologies.
  7. Vocational, business, trade or industrial training schools and other types of technical training facilities.
  8. Warehouse provided a minimum of 25% (twenty five percent) of floor area shall be devoted to office space.
  9. Wireless communications facilities subject to Section 10.24.
  10. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses.
- C. *Special land uses.*
1. The manufacture, processing, assembling, packaging or treatment of finished or semi-finished products from previously prepared materials.

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## **Sec. 4.14. Industrial Manufacturing District (IM).**

- A. *Intent.* The general intent of the IM Industrial Manufacturing District is to accommodate a range of industrial developments from light industrial to heavy industrial. The uses will include those permitted by right in the TR District and manufacturing, assembling and fabrication and by special land use approval industrial operations whose external physical effects will be felt by some degree by surrounding districts. The manufacturer may use semi-finished or finished products from raw materials as well as from previously prepared material. The IM District is intended to provide sufficient space, in appropriate locations, to meet the needs of the municipality's expected future economy for certain types of research, office, industrial, warehouse, manufacturing and related uses.
- B. *Permitted uses.*
1. Permitted uses in the OS, C-1, C-2 and TR Districts.
  2. Automotive, heavy equipment, commercial vehicles repair businesses such as engine rebuilding, paint and body shops, rebuilding or reconditioning of motor vehicles and collision service.
  3. Light manufacturing uses that involve fabrication of assembly of parts and products from semi-processed materials. Such uses include, but are not limited to: processing and packaging of beverages, fabrication of metal, plastic or glass products, manufacturing of electronic parts and products, manufacturing of motor vehicles and heavy machinery.
  4. Machine shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; cabinet shops, plumbing, heating, and electrical repair shops.
  5. Outdoor storage of trucks, trailers, equipment, supplies, materials, finished and semi-finished products, building material, sand, gravel, stone, lumber, contractors equipment and supplies and recreational equipment in accordance with Section 10.10, Construction Contractors' Open Storage Yards.
  6. Pharmaceutical manufacturing facilities.
  7. Self storage facilities including 1 (one) accessory dwelling for a caretaker.
  8. Warehouse, distribution and wholesale establishments.
  9. Accessory structures and uses customarily incidental to the permitted uses listed and subject to Article 8.03, Accessory Structures and Uses including: retail and rental uses accessory to wholesale and manufacturing establishments.
- C. *Special land uses.*
1. Any special land use permitted in the OS, C-1, C-2 and TR Districts unless otherwise allowed as a permitted use in one of these districts.
  2. Airports, airstrips and heliports subject to Section 10.04.
  3. Central dry cleaning plants or laundries, provided that such plants shall not deal directly with retail customers.
  4. Crematoriums.
  5. Garbage, refuse and rubbish recycling transfer stations and incineration.
  6. Heavy industrial manufacturing uses that primarily involve the processing of products from extracted or raw materials, of the bulk storage and handling of such products and materials, as well as uses that have the potential to produce noise, dust, glare, odors, vibration or electromagnetic radiation beyond the limits of the principal building. Heavy industrial manufacturing uses that involve large structures,

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tanks and/or silos beyond the principal building such as refineries. Such uses include, but are not limited to: chemical manufacturing, stonework or concrete production, and lumber milling. Heavy industrial uses are subject to Section 10.28 and other use specific Supplemental Use Regulations.

7. Salvage yards and distress vehicle transport subject to Section 10.22.
8. Yard waste composting facilities subject to Section 10.25.

( Ord. No. Z-005, § 2, 3-11-2015 )





**Sec. 4.15. Schedule of Regulations.**

TABLE 4.1. SCHEDULE OF REGULATIONS

Zoning District	Minimum Lot Size		Maximum Building Height (B)		Minimum Yard Setback (C, D, E, P)					Max. Lot Coverage	Min. Floor Area per Dwelling Unit
	Area	Lot width	Stories	Feet	Front	Least Side	Total Side	Rear	Ordinary High Water Mark	Percent	Square Feet
ARR Q	5 acres (L)	330 ft.	2	28 (A)	75 ft. (G)	40 ft.	80 ft.	100 ft.	65 ft.	10%	1,000 (750 first floor)
R-3	3 acres (L)	200 ft.	2	28 (A)	75 ft. (G)	40 ft.	80 ft.	100 ft.	65 ft.	10%	1,000 (750 first floor)
R-1.5	65,000 sq. ft. (M)	150 ft.	2	28 (A)	50 ft. (G)	30 ft.	60 ft.	50 ft.	65 ft.	15%	1,000 (750 first floor)
LV (H)	---	---	---	---	---	---	---	---	65 ft.	---	---
RM (I)	---	---	---	---	---	---	---	---	65 ft.	---	---
MH (J)	---	---	---	---	---	---	---	---	65 ft.	---	---
OS	30,000 sq. ft. (N)	120 ft.	2	25	80 ft. (F)	20 ft.	50 ft.	50 ft.	65 ft.	30%	N/A
C-1	30,000 sq. ft. (N)	120 ft.	2	25	80 ft. (F)	20 ft.	50 ft.	50 ft.	65 ft.	30%	N/A
C-2	30,000 sq. ft. (N)	150 ft.	2	25	80 ft. (F)	20 ft.	50 ft.	50 ft.	65 ft.	30%	N/A
C-3	30,000 sq. ft. <sup>N</sup>	150 ft.	2	25	80 ft. <sup>F</sup>	20 ft. <sup>S</sup>	50 ft. <sup>S,T</sup>	50 ft. <sup>S,T</sup>	65 ft.	varies <sup>U</sup>	N/A
HS (K)	---	---	---	---	---	---	---	---	65 ft.	---	---
TR (O)	30,000 sq. ft. (N)	150 ft.	2	30	40 ft. (F)	20 ft.	40 ft.	40 ft.	65 ft.	30%	N/A
IM (O)	30,000 sq. ft. (N)	150 ft.	2	30	75 ft. (F)	20 ft.	40 ft.	40 ft.	65 ft.	30%	N/A

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- A. For residential principal and accessory structures, the structure shall be designed so that firefighters can access the roof at multiple locations by means of a standard fire ladder.
  - B. For non-residential accessory structures, the maximum building height shall be subject to the same height requirement as a principal structure.
  - C. Non-residential accessory buildings, structures and uses shall be subject to the same setback requirements as a principal building structure, or use. A non-residential accessory building, structure or use shall not occupy more than twenty-five percent (25%) of the total gross floor area of the principal building in which it serves, except that the Technology and Research District shall be limited to fifteen percent (15%).
  - D. Septic systems in all districts are subject only to the setbacks established by the Oakland County Health Division.
  - E. Any structure, yard, pen, or other area where farm animals are kept must be setback fifty (50) feet from any residential building or structure on the same lot and fifty (50) feet from any building or structure on an adjacent lot. Animal owners are liable for damage their animals may inflict on neighboring properties, and are advised to maintain a suitable setback from the property line, considering the behavior of their animals and the nature of the adjoining properties.
  - F. For parcels fronting on M-59, a minimum setback of one hundred (100) feet shall be required.
  - G. For lots fronting major thoroughfares, the front yard setback shall be increased by fifty (50) feet.
  - H. Refer to Section 9.02 for Lake and Village Residential District regulation.
  - I. Refer to Section 9.03 for Multiple-family Residential regulations.
  - J. Refer to Section 9.04 for Manufactured Home Park District regulations.
  - K. Refer to Section 9.05 for Highland Station District regulations.
  - L. Minimum buildable area shall be 2 acres. The buildable area shall be of such configuration to permit construction of a house, septic system and reserve septic system.
  - M. Minimum lot size and buildable area shall be 65,000 square feet. The buildable area shall be of such configuration to permit construction of a house, septic system and reserve septic system.
  - N. Minimum lot size and buildable area shall be 30,000 square feet. The buildable area shall be of such configuration to permit construction of the principal structure, septic system and reserve septic system.
  - O. Refer to Section 9.06 for additional regulations for the Technology and Research District and the Industrial Manufacturing District.
  - P. Corner and through lots have two front yards. The two remaining yards are considered side yards. Corner lots will have a rear yard if the parcel is large enough to be divided.
  - Q. Refer to Section 10.13 for Yard Setback Exceptions relative to temporary Farm Market Structures.
  - R. For accessory buildings and structures in the R-3 Zoning District, the rear yard setback shall be fifty (50) feet.
  - S. Side and rear setbacks shall be doubled along lot lines adjacent to residentially zoned and used properties.
  - T. A minimum twenty-five (25) foot landscape buffer is required along lot lines adjacent to residentially zoned and used properties. No outdoor activities are permitted in this space.
  - U. Maximum lot coverage shall not exceed thirty (30) percent except that the aggregate of greenhouses and self-storage may cover forty (40) percent of the lot, provided no single building exceeds five thousand (5,000) square feet.

( Ord. No. Z-006, § 1, 10-14-2015 ; Ord. No. Z-013 , § 1, 10-9-2019)

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#### **Sec. 4.16. Temporary uses in any zoning district.**

1. The Planning Commission may approve uses that do not involve the erection of permanent structures or necessitate significant site improvements on a temporary basis, not to exceed 90 consecutive calendar days, nor a total of 90 days in any one year per applicant and per parcel. Such temporary uses shall be subject to the application requirements and review process for sketch plan as provided in Article 5, Site Plan Review: Procedures and Standards.
2. Only uses allowed as Principal Permitted Uses within the zoning district of the subject parcel may be considered as temporary uses under this Ordinance. Proposed uses shall comply with any applicable provisions of Article 10, Supplemental Use Provisions.
3. The Planning Commission may approve the seasonal sales of agricultural products on parcels in the OS, C-1, C-2, and HS Zoning Districts for any defined period(s) between May 1 and December 31 provided the following conditions are met:
  - a) No permanent structures are erected
  - b) All structures, including display stands and signage are removed from the site if sales of product(s) are suspended for five days or more.
  - c) The use satisfies Section 10.13 Supplemental Provisions for Farm Markets, except that the applicant need not prove an ownership interest in the land or as producer under a temporary use permit.
  - d) The application for seasonal sales of agricultural products must clearly indicate the products to be offered for sale and the calendar dates applicable to each product.
4. Outdoor gatherings or assemblies may be approved in any Zoning District subject to Planning Commission review of sketch plans and operations plans, and further subject to the provisions of Chapter 14, Outdoor Gatherings, of the General Code of Ordinances.
5. In considering applications for temporary uses, the Planning Commission shall consider the following:
  - a. Adequacy of screening or buffers to protect nearby residential properties from light trespass, noise, and other nuisances.
  - b. Appropriate setbacks and placement of shelters, parking, display areas and other elements of the use.
  - c. Provisions for clean water, sanitation and refuse handling.
  - d. Traffic circulation patterns and availability of offsite parking.
  - e. Compatibility with neighboring land uses.
6. The Planning Commission may impose conditions upon approval such as, but not limited to hours of operation, limits on outdoor lighting and sound systems, restoration of the site upon discontinuation of the temporary use.
7. Signage must comply with the provisions of Section 14.07G, Temporary Commercial Special Event Signs, although the Planning Commission may extend time periods for such signs to comply with the period of approval for the temporary use.
8. The Zoning Administrator shall document all conditions of approval in a temporary land use permit. The applicant may be required to post a performance guarantee, as provided in Section 3.09B to secure the temporary land use permit and assure final restoration of the site.
9. Administrative renewal of a temporary use may occur on an annual basis subject to the following conditions:

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- a. The use shall have a defined start and end date with a maximum activity time frame of ninety (90) consecutive days (except for seasonal sales of agricultural products which must generally conform to schedules approved by the Planning Commission in original approval).
  - b. The use shall be specific to the applicant and shall not be transferable.
  - c. The use would not expand in size or change location on the property from event to event.
  - d. The restoration of the area has been completed upon termination of the temporary use as confirmed by the Zoning Administrator by physical examination of the site within 30 days of the end of the temporary use permit.
  - e. No complaints were filed regarding the temporary use that were not resolved to the satisfaction of the Zoning Administrator and Township Supervisor.
  - f. The Zoning Administrator may, at her (his) discretion, refer the matter to the Planning Commission for further consideration.

( Ord. No. Z-005, § 2, 3-11-2015 )

## ***ARTICLE 5. SITE PLAN REVIEW: PROCEDURES AND STANDARDS***

### **Sec. 5.01. Intent.**

These site plan review procedures and standards provide a consistent method for reviewing land use and development proposals to attain compliance with this Zoning Ordinance, the Master Plan, Engineering Design and Construction standards, other applicable local policies, ordinances, and state and federal laws. The procedures are further intended to:

- A. Preserve and protect natural features and greenways.
- B. Achieve harmonious relationships of buildings, structures and uses within a site, with adjacent sites, and within the context and character of the community.
- C. Provide for safe and convenient traffic circulation and access to and between sites.
- D. Provide for the public health by requiring sound plans for dealing with sewage disposal, water supply and storm water management issues.
- E. Provide a means to bring existing developments into compliance with current standards.
- F. Encourage cooperation and consultation between the Township and applicants to further the objectives of the Master Plan.

### **Sec. 5.02. Uses subject to site plan review.**

A building permit shall not be issued until a site plan or sketch plan has been approved, a Land Use Permit has been issued, all fees have been paid, and a suitable escrow deposit has been placed to cover costs for review and inspection.

A change of use of an existing building shall require full site plan or sketch plan review if any of the following conditions apply:

- 1. There is no approved site plan on file at the Township.
- 2. The site plan on file was approved prior to July 9, 1986.

3. The property description has changed due to addition or division of any real property from the subject parcel.
4. The proposed use would result in a greater parking requirement than the use specified on the approved site plan.
5. There has been a significant change in the road right-of-way such as widening of alteration of traffic controls at the nearest intersection.
6. There is a documented drainage issue on the site.

Each project will be subject to the appropriate review process as set forth in Table 5.1, depending upon the scale and complexity of the proposal. For circumstances not specifically covered in Table 5.1, Eligible Uses and Required Review Process, the Zoning Administrator has the authority to determine the process that will be followed and may refer the application to the Township's Planning Commission, Planning Consultants, Engineers or other Consultants for review and recommendation. Proposals will be reviewed under one of the following processes:

- A. *Full site plan.* A full site plan is the most detailed process, typically required for all new developments and major expansions. This process will not apply to individual single family homes and accessory structures. Site plans will be reviewed for approval by the Planning Commission.
- B. *Sketch plan.* The sketch plan process is appropriate for small-scale projects such as change of use of an existing building. The plans may be less detailed than full site plans, provided sufficient detail allows for review for compliance with applicable standards. Sketch plans will be reviewed for approval by the approving body as identified in Table 5.1.
- C. *Administrative review.* Administrative review is reserved for new projects and minor changes subject to Table 5.1, Eligible Uses and Required Review Process. Projects eligible for administrative review shall be reviewed by the Zoning Administrator. Submittal requirements will be based on the nature of the intended use. The Zoning Administrator may refer any application to the Township's Planning Commission, Planning Consultant, Engineer or other Consultants for review and recommendation when it is unclear as to the review process.
- D. *Land Use Permits.* Single family dwellings, accessory structures and uses shall require a land use permit in accordance with Section 3.05, Land Use Permits.

TABLE 5.1. ELIGIBLE USES AND REQUIRED REVIEW PROCESS

Situation/Uses		Required For:		
		Full Site Plan	Sketch Plan	Admin. Review
<b>A.</b>	<b>New Development</b>			
	Multiple-family dwellings	PC		
	Construction of any non-residential use or building	PC		
	Establishment of Special Land Uses in all zoning districts, except where specifically noted elsewhere in this table	PC/TB		
	Wireless Communications Facilities, construction, alteration or enlargement	PC		
	Construction of essential public service buildings and storage areas	PC		
	Golf courses and public/private parks	PC		
	Minor changes during construction such as changes in landscape species to a similar variety, realignment of a driveway or road due to an unanticipated			ZA

	& undocumented constraint during construction, or to improve safety or protect natural features			
	Minor changes during construction required by outside agencies			ZA
	RCD Initial Review		PC	
	RCD Final Review	PC		
	Class A Farm Market			ZA
	Class B Farm Market	PC		
	Class C Farm Market Event Venue	PC/TB		
<b>B.</b>	<b>Expansions</b>			
	An increase in the floor area up to 25% of the existing floor area or 1,000 s.f. for a use requiring site plan approval		PC	
	An increase in the floor area greater than that specified above	PC		
	An increase in parking or loading area of up to 25% or 6,000 s.f. of paved area whichever is greater without any building changes			ZA
	An increase in parking or loading area over 25% or 6,000 s.f. of pavement area without any building changes		PC	
	Changes to building height that do not add additional floor area			ZA
	Any change or expansion of non-residential use		PC	
	Collocation on existing wireless communication facilities			ZA
	Expansion of an approved wireless communication ground equipment enclosure	PC		
	Installation of new wireless communication ground equipment within an approved ground equipment building or enclosure			ZA
	For residentially zoned parcels operating under a special use permit, the addition of an accessory structure such as a shed, garage or similar accessory structure that would be otherwise permitted as a residential accessory structure.			ZA
	The addition of a shed or accessory structure of 240 square feet or less and 15 feet tall or less in a non-residential zoning district.			ZA
<b>C.</b>	<b>Change of Use</b>			
	Change of use for building with an approved site plan on file, provided site is determined to be generally compliant with site plan and use is permitted by right			ZA
	Change of use for a building without an approved site plan on file, where site improvements are generally compliant with Ordinance except for elements such as lighting, signage or landscaping		PC	
	Change of use for a building without an approved site plan on file, where site improvements such as paving, drainage or utility work are necessary to bring the site into compliance with the Ordinance	PC		
	Change of use for an existing non-conforming use or structure		ZBA	
<b>D.</b>	<b>Other Types of Projects</b>			
	Accessory open air businesses		PC	
	Improvements to outdoor recreational uses and parks that are permitted uses		PC	
	Accessory building and structures associated with a non-single family residential use in any zoning district	PC		
	Architectural changes to non-single-family residential structures (an elevation plan describing changes and construction materials is required)			ZA

	Bike path, pathway or sidewalk construction or relocation			ZA
	Construction of an entrance feature associated with a non-single-family residential use (walls, landscaping, etc.)		PC	
	Grading, excavation, filling, soil removal, creation of ponds or clearing of trees within an area of 1,000 s.f., provided such activity is normally and customarily incidental to single-family uses on the site			ZA
	Grading, excavation, filling, soil removal, creation of ponds or clearing of trees other than that specified above		PC	
	Home occupations			ZA
	Internal construction or change in the floor plan that does not increase gross floor area, increase the intensity of use or affect parking requirements on a site which meets all site design standards of this ordinance			ZA
	Landscape changes to similar species and that are consistent with the standards of this ordinance			ZA
	Modifications to upgrade a non-single-family residential building to improve barrier-free design, or to comply with the Americans with Disabilities Act or other federal, state or county regulations			ZA
	Parking lot improvements provided the total number of spaces shall remain constant			ZA
	Portable classrooms		PC	
	Sign relocation or replacement provided it meets the dimensional and location standards of this ordinance			ZA
	Site improvements such as installation of walls, fences, lighting or curbing consistent with ordinance standards		PC	
	Temporary trailer used for construction office			ZA
	Temporary uses, sales and seasonal events		PC	
	Waste receptacle relocation to a more inconspicuous location or installation of screening around the waste receptacle			ZA

PC	Planning Commission
ZBA	Zoning Board of Appeals
TB	Township Board
ZA	Zoning Administrator

( Ord. No. Z-010 , § 2, 10-11-2017)

**Sec. 5.03. Site plan and sketch plan review procedures and requirements.**

Site plans and sketch plans must be submitted in accordance with the following procedures and requirements:

- A. *Application.* The application shall be submitted by the owner for which site plan or sketch plan approval is sought, or by an agent of the owner as authorized in writing.
- B. *Pre-application meeting.* The applicant shall meet with the Zoning Administrator to discuss the project, submittal requirements and the review process. The applicant should provide sufficient information prior to the meeting so that the Zoning Administrator may identify other staff, consultants or

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interested parties whose early input would be beneficial to the review process. The intent of the meeting is to provide guidance and identify issues and resources for the applicant. No approvals or decisions will result from the pre-application meeting. Comments or suggestions of staff and consultants are for the applicant's consideration and are not binding upon the Board or Commission with authority to act on the application.

- C. *Site plan submittal.* The applicant shall submit twenty (20) copies of the following to the Zoning Administrator. Plans will not be accepted unless all materials are submitted.
  - 1. Complete application and application checklist form supplied by the Township.
  - 2. Written description of the proposed project or use.
  - 3. A completed site plan or sketch plan that includes the information required in Table 5-2.
  - 4. Any additional information the reviewing body finds necessary and appropriate to complete their review, as may be requested by the Township. Additional information may include but is not limited to natural features, stormwater management, surrounding land uses, public facilities and services, utilities, and traffic.
- D. *Technical reviews.* The Zoning Administrator shall forward the applications and site plan(s) to the appropriate staff and consultants for their review and comment.
- E. *Planning Commission subcommittee reviews.* The Zoning Administrator shall forward all applications and site plan(s) to members of the Planning Commission. The Chairman shall assign preliminary review of the site plan to the appropriate subcommittee for their evaluation prior to inclusion of the project on an agenda.
- F. *Planning Commission consideration.* The Zoning Administrator shall compile all staff and consultant reviews and distribute to the Planning Commission. A project shall not be scheduled for an agenda unless adequate time is allowed for receipt and distribution of the reports one week prior to the Planning Commission meeting.

The Planning Commission subcommittee, staff and consultants will report findings to the Planning Commission, who shall then make a determination based on the standards and requirements of this Ordinance. The Planning Commission may table, approve, approve subject to conditions, or deny a site plan as follows:

- 1. *Table.* The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to the deficiencies identified in the reviews, if a variance is needed from the Zoning Board of Appeals, or if revisions are needed be tentatively rescheduled for a future meeting date, subject to timely submittal of revised plans accompanied by a letter describing all changes, signed by the applicant or the applicant's design professional.
- 2. *Site plan approval.* The application may be approved if the site plan is determined to be in compliance with the standards and requirements of this Ordinance. The applicant will then be directed to complete construction plans for the building(s) and site improvements, and to pursue all required permits and approvals may be granted concurrently. Preliminary Approval is valid for one (1) year after approval of the official minutes.
- 3. *Site plan approval, subject to conditions.* The application may be approved, subject to conditions if: 1) those conditions are reasonably related to the burdens imposed by the Development and/or 2) modifications to the Site Plan are required to ensure full Ordinance compliance. The applicant shall comply with the conditions identified by the Planning Commission while completing the construction plans for the building(s) and site improvements. Preliminary Approval is valid for one (1) year after approval of the official minutes.



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4. *Denial.* The application may be denied if the site plan does not comply with the standards and requirements of this Ordinance. Any re-submittal shall be considered a new site plan, and shall be required to reinitiate the full review process. Any person aggrieved by a decision of the Planning Commission in denial of a site plan shall have the right to appeal to the Zoning Board of Appeals.
  5. *Construction plan approval (with or without conditions).* The Zoning Administrator shall place the application on a Planning Commission agenda for final review once the following conditions have been met:
    - a. The site plan has been revised to address any conditions of the Preliminary Approval;
    - b. Construction plans (define or include in chart) have been developed in conformance with applicable standards and are approved by the Township Engineer; and
    - c. All necessary outside agency approvals have been obtained.

The Planning Commission will grant final approval of the plans if it determines that the plans comply with the conditions (if any) of the preliminary approval and the standards and requirements of this Ordinance.

- G. *Agency approvals.* The applicant shall be required to obtain all other necessary permits from agencies such as, but not limited to, the Oakland County Water Resources Commissioner, Road Commission for Oakland County, Oakland County Health Division and State of Michigan, as well as applicable utility companies. Copies of applications and approvals from all agencies shall be submitted prior to final site plan approval.
- H. *Recording of site plan review action.* Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission's meeting. The findings supporting the Commission's action shall be recorded in the minutes. After the minutes have been approved, one (1) copy of the site plan shall be transmitted to the applicant, along with a copy of the final approved minutes documenting any conditions of approval.
- I. *Building improvements.* The applicant can apply for a building permit and land use permit once Final Approval of the Site Plan or Sketch Plan has been granted by the Planning Commission and a pre-construction meeting has been held with planning staff, Township planning consultants and Township engineers.
- J. *Commencement and completion of construction.* Construction shall commence and be completed in accordance with the Development Agreement as required under Section 3.12.

#### **Sec. 5.04. Standards for site plan approval.**

In the process of review and approval, the Planning Commission may consider the following factors in evaluating site plans, condominium plans and subdivision plats:

- A. The proposed use will not be injurious to the general health, safety and welfare of the Township and surrounding neighborhood.
- B. There is a proper relationship between thoroughfares and proposed service drives, driveways and parking areas.
- C. The proposed development provides for proper development of roads, easements and public utilities, and protects the general health, safety, welfare and character of the Township.

- D. The location of buildings, outside storage receptacles, parking areas, screen walls and utility areas is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.
- E. The design of storm sewers, stormwater facilities, roads, parking lots driveways, water mains, sanitary sewers and other site improvements meets the design and construction standards of the Township and other appropriate agencies.
- F. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides. Site features such as, but not limited to, trees and other plant materials, fences, retaining walls, berms, outdoor furniture, outdoor structures, and natural and artificial water bodies shall be arranged to permit adequate emergency vehicle access.
- G. Site planning and design of specific improvements will accomplish the preservation and protection of existing natural resources and features such as lakes, ponds, streams, wetlands, floodplains, steep slopes, groundwater, trees, and wooded areas, including understory trees.
- H. The proposed development will utilize the natural topography to the maximum extent possible by minimizing the amount of cutting, filling and grading required.
- I. The proposed development will not cause soil erosion or sedimentation. The drainage plan is adequate to handle anticipated stormwater runoff.
- J. A stormwater management system and facility will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site. The Oakland County Drain Commission Standards shall be used for the review and approval of all stormwater management systems.
- K. Wastewater treatment systems, including on-site septic systems will be located to minimize any potential degradation of surface water or ground water quality.
- L. Sites which include storage of hazardous waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of pollution materials to the surface of the air or to the ground, groundwater or nearby water bodies, with a specific plan to achieve such objectives being incorporated as part of the site plan.
- M. Landscaping, including grass, trees, shrubs and other vegetation is provided to maintain and improve the aesthetic quality of the site and area.
- N. The means of ingress and egress to and from the site shall be planned with the objective of achieving recognized planning, engineering and safety standards, and shall not result in an unreasonable risk of danger to persons and/or property on the site and/or off the site. In general, this standard shall be met based upon the design of ingress and egress in terms of number, location and design of access(es), and utilization of acceleration, deceleration and passing lanes and approaches. The Planning Commission shall review the ingress and egress proposed for the purpose of promoting and protecting traffic safety, and shall require improvements accordingly.
- O. The site plan complies with all Township Ordinances and design standards and any other applicable laws.

TABLE 5.2. SITE PLAN AND SKETCH PLAN SUBMITTAL REQUIREMENTS

Plan Data	Required For:
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		Site Plan	Sketch Plan
<b>A.</b>	<b>Application Form</b>		
	Name and Address of the Applicant and Property Owner	•	•
	Address and Common description of Property and complete Legal Description	•	•
	Dimensions of Land and total Acreage	•	•
	Zoning on the site and all adjacent properties	•	•
	Description of proposed project or use, type of building or structures, and name of proposed development, if applicable	•	•
	Name and Address of Firm or individual who prepared the site plan	•	•
	Proof of Property Ownership	•	•
<b>B.</b>	<b>Site Plan Descriptive and Identification Data</b>		
	Site plans shall consist of an overall plan for the entire development, drawn to an Engineer's Scale of not less than 1 inch = 50 feet for property less than 3 acres, or 1 inch = 100 feet for property 3 acres or more in size. Sheet size shall be at least 24 x 36 inches if a large development is shown in sections on multiple sheets then one overall composite sheet shall be included.	•	•
	Title Block with Sheet number/Title; Name, Address and Telephone Number of the Applicant and Firm or Individual who prepared the Plans; and Date(s) of submission and any revisions (Month, Day, Year)	•	•
	Scale and North-Point	•	•
	Location map drawn to a separate scale with North-Point, Showing Surrounding Land, Water Features, Zoning and Roads within ½ mile	•	
	Legal and Common Description of Property	•	•
	Identification and seal of Architect, Engineer, Land Surveyor, or Landscape Architect who prepared drawings	•	
	Zoning Classifications of Petitioner's Parcel and all Abutting Parcels	•	•
	Proximity to Section Corner and Major Thoroughfares	•	•
	Buildable Area in Acres and Gross Acreage	•	•
<b>C.</b>	<b>Site Data</b>		
	Existing Lot Lines, Building Lines, Structures, Parking Areas, sidewalks/Pathways and other Improvements on the Site and within 100 foot of the Site	•	•
	Topography on the Site and within 100 foot of the Site at Two-Foot Contour Intervals, Referenced to a U.S.G.S. Benchmark	•	
	Proposed Lot Lines, Lot Dimensions, Property Lines, Setback Dimensions, Structures, and other Improvements to the Site and within 100 foot of the Site	•	•
	Location of Existing Drainage Courses, Floodplains, Lakes and Streams, and Wetlands with Elevations	•	•
	A Natural Resources Inventory and Stewardship Plan as outlined in Section 15.02	•	•
	Location of any Wellhead Protection Areas, as Identified in the Natural Features Protection Area Map, If Applicable	•	•
	All Existing and Proposed Easements Including Type	•	•
	Location of Exterior Lighting ( Site and Building Lighting)	•	•
	Location of Trash Receptacle(s) and Transformer Pad(s) and Method of Screening	•	•
	Extent of any Outdoor Sales or Display Area	•	•
<b>D.</b>	<b>Access and Circulation</b>		
	Dimensions, Curve Radii and Centerlines of Existing and Proposed Access Points, Roads and Road Rights-of-Way or Access Easements	•	•

	Driveways and Intersections within 250 foot of the Site	•	
	Cross Section details of Proposed Roads, Driveways, Parking Lots, Sidewalks and Non-Motorized Paths Illustrating Materials and Thickness	•	
	Dimensions of Acceleration, Deceleration, and Passing Lanes	•	
	Dimensions of Parking Spaces, Islands, Circulation Aisles and Loading Zones	•	•
	Calculations for required number of Parking and Loading Spaces	•	•
	Designation of Fire Lanes	•	•
	Traffic Regulatory Signs and Pavement Markings	•	
	Location of Existing and Proposed Sidewalks/Pathways within the Site Right-of-Way	•	•
	Location, Height, and Outside Dimensions of all Storage Areas and Facilities	•	•
	Traffic Impact Study as may be required by the Planning Commission	•	•
<b>E.</b>	<b>Landscape Plans</b>		
	Location, Sizes, and Types of Existing Trees 6 inches or Greater in Diameter, Measured at 3.5 feet off the Ground, Evergreen Trees 10 foot or Taller and the General Location of all other Existing Plant Materials, with an Identification of Materials to be Removed Materials to be Preserved	•	•
	Description of Methods to Preserve Existing Landscaping	•	
	The Location of Existing and Proposed Lawns and Landscaped Areas	•	•
	Landscape Plan, Including Location and Type of all Proposed Shrubs, Trees, and Other Live Plant Material	•	
	Planting List for Proposed Landscape Materials, with Caliper Size or Height of Material, Method of Installation, Botanical and Common Names, and Quantity	•	
	Proposed Dates of Plant Installation	•	
	Landscape Maintenance Schedule	•	
<b>F.</b>	<b>Building and Structure Details</b>		
	Location, Height, and Outside Dimensions of all Proposed Buildings and Structures	•	•
	Building Floor Plans and Total Floor Area	•	
	Details on Accessory Structures and any Screening	•	
	Size, Height and Method of Shielding for all Site and Building Lighting	•	
	Location, Size, Height, and Lighting of all Proposed Site and Wall Signs	•	•
	Location, Size, Height and Material of Construction for all Obscuring Wall(s) or Berm(s) with Cross-Sections, where required	•	•
	Building Façade Elevations for all Sides, Drawn at an Appropriate Scale	•	
	Description of Exterior Building Materials and Colors (Samples may be Required)	•	
<b>G.</b>	<b>Information Concerning Utilities, Drainage and Related Issues</b>		
	Location of Sanitary Sewers and Septic Systems, Existing and Proposed	•	
	Location and Size of Existing and Proposed Water Mains, Well Sites, Water Service, Storm Sewers Loads, and Fire Hydrants	•	
	Stormwater Drainage and Retention/Detention Calculations	•	•
	Indication of Site Grading, Drainage Patterns and other Stormwater Management Measures	•	•
	Stormwater Retention and Detention Ponds, including Grading, Side Slopes, Depth, High Water Elevation, Volume and Outfalls	•	•
	Location and Size of Underground Storm Sewers and Drains	•	•
	Location of Above and Below Ground Gas, Electric and Telephone Lines, Existing and Proposed	•	
	Location of Transformers and Utility Boxes	•	

	Assessments of Potential Impacts from the Use, Processing, or Movement of Hazardous Materials or Chemicals, if Applicable	•	
<b>H.</b>	<b>Additional Information Required for Multiple Family Residential Development</b>		
	The number and location of each type of residential unit (One Bedroom Units, Two Bedroom Units, etc.)	•	
	Density Calculations by Type of Residential Unit (Dwelling Units per Acre)	•	
	Garage and/or Carport Locations and Details, if Proposed	•	
	Mailbox Clusters	•	
	Location, Dimensions, Floor Plans and Elevations of Common Building(s) (e.g., Recreation, Laundry, etc.), if Applicable	•	
	Swimming Pool Fencing Detail, including Height and Type of Fence, if Applicable	•	
	Location and Size of Recreation and Open Space Areas	•	
	Indication of Type of Recreation Facilities Proposed for Recreation Area	•	

\*If any of the items listed above are not applicable, a list of each item considered not applicable and the reason(s) why each listed item is not considered applicable should be provided on the site plan

## **ARTICLE 6. SPECIAL LAND USE PROCEDURES AND STANDARDS**

### **Sec. 6.01. Intent.**

This Article is intended to provide regulations for Special Land Uses, which may be compatible with permitted uses in a zoning district, under specific location and site criteria. This Article provides standards for the Planning Commission and the Township Board to determine the appropriateness of a given special land use covering factors such as compatibility with adjacent zoning and land uses, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used, and processes employed. Establishment or major expansion of any special land use requires a special land use permit under this Article.

### **Sec. 6.02. Submittal procedures.**

- A. *Applicant.* An applicant shall be the owner of the land or an agent of the owner of the land for which the special land use approval is sought. The applicant shall have affirmative authorization in writing from the owner(s) of the property.
- B. *Pre-application.* The applicant is required to schedule a pre-application meeting with the Zoning Administrator to discuss the project, submittal requirements and the review process. The applicant shall provide sufficient information prior to the meeting to allow the Zoning Administrator to identify other staff, consultants or interested parties whose early input would be beneficial to the review process. The intent of the pre-application meeting is to provide the applicant with direction and to help identify any issues or resources. No approvals will result from the pre-application meeting. Comments or suggestions of staff and consultants are for the applicant's consideration and are not binding.
- C. *Application.* The applicant shall submit the following to the Zoning Administrator:
  - 1. Completed application, application checklist and payment of required fees.
  - 2. Written description of the proposed project or use.

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3. An operations plan that illustrates the location of various activities proposed for the site such as sales areas, parking areas, traffic circulation patterns, sanitary provisions and other uses determined by the Zoning Administrator at the pre-application meeting.
  4. Any additional information necessary for the Township to complete the review. Additional information the Zoning Administrator or Planning Commission finds necessary and may include but is not limited to: natural features, stormwater management, surrounding land uses, public facilities/services, public utilities and traffic.
  5. For land uses involving permanent structures and/or significant site improvements, a site plan or sketch plan application, prepared in accordance with the procedures outlined in Article 5. Site Plan Review: Procedures and Standards may be submitted concurrently with the Special Use Approval Application.
  6. No Special Land Use Permit shall be finalized until such time as all approvals required under Section 5.02 are approved by the Planning Commission or Zoning Administrator as appropriate.

( Ord. No. Z-006, § 2, 10-14-2015 )

### **Sec. 6.03. Review procedures.**

- A. *Technical Review.* The special land use application shall be reviewed by township staff for completeness and compliance with the appropriate sections of this Ordinance. The Zoning Administrator may forward the application to the consultants for additional review. Technical reviews shall be submitted to the Planning Commission.
- B. *Planning Commission Review and Public Hearing.* The Zoning Administrator shall forward all special land use applications to the Planning Commission, along with any staff reports or consultant reviews as may be available. The Planning Commission shall schedule the application for public hearing on the next available agenda with proper notice as stated in Section 3.11, Public Hearing Notice.
- C. *Planning Commission consideration.* At the public hearing, the Planning Commission subcommittee, staff and consultants will report findings to the Planning Commission and the public. The Planning Commission shall then make a determination on the proposed special land use based on the standards and requirements of this Ordinance. The Planning Commission may table, recommend approval, recommend approval subject to conditions, or recommend denial of a proposed special land use to the Township Board as follows:
  1. *Table.* The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to the deficiencies identified in the review or if the Planning Commission determines more time is needed to fully evaluate the special land use request. The application will be tentatively rescheduled for a future meeting date.
  2. *Recommend approval.* The Planning Commission may recommend approval of the special land use to the Township Board if it is determined to be in compliance with the standards and requirements of Section 6.03.H, Standards for Special Land Use, this Ordinance, and any specific standards set forth in Article 10, Supplemental Use Regulations that are applicable to the use.
  3. *Recommend conditional approval.* The Planning Commission may recommend approval to the Township Board of the proposed special land use subject to conditions. The proposed special land use may require additional conditions, provisions or limitations necessary for the protection of the public health, safety and welfare. The conditions stated as part of the approval of the special land use shall be a continuing obligation of the owner of the land. The conditions that the Planning Commission imposes shall provide for adequate public services and facilities to accommodate increased loads caused by the

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- proposed land use or activity, protection of the natural environment, conservation of natural resources and energy and to ensure compatibility with adjacent uses of land.
4. *Recommend denial.* The Planning Commission shall recommend denial of an application to the Township Board if, the special land use does not comply with the standards and requirements of this Ordinance or any provisions specific to the Zoning District that the proposed use is permitted by right.
- D. *Township Board review and public hearing.* The Zoning Administrator shall forward all special land use applications and the Planning Commission's recommendations to the Township Board. The Township Board shall schedule the application for public hearing on the next available agenda with proper notice as stated in Section 3.11, Public Hearing Notice.
- E. *Township Board consideration.* At the public hearing, the Township Board will review all of the findings presented to them prior to the meeting, the Planning Commission's recommendation and any public comments at the meeting. The Township Board shall then make a determination on the proposed special land use. The Township Board may table, approve, approve subject to conditions, or deny a proposed special land use as follows:
1. *Table.* The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to the deficiencies identified in the review or if the Township Board determines more time is needed to fully evaluate the special land use request. The application will be tentatively rescheduled for a future meeting date.
  2. *Approval.* The special land use may be approved if it is determined to be in compliance with the standards and requirements of Section 6.03.H, Standards for Special Land Use, this Ordinance, and any specific standards set forth in Article 10, Supplemental Use Regulations that are applicable to the use.
  3. *Conditional approval.* The Township Board may approve the proposed special land use subject to conditions. The proposed special land use may require additional conditions, provisions or limitations necessary for the protection of the public health, safety and welfare. The conditions stated as part of the approval of the special land use shall be a continuing obligation of the owner of the land. The conditions that the Township Board imposes shall provide for adequate public services and facilities to accommodate increased loads caused by the proposed land use or activity, protection of the natural environment, conservation of natural resources and energy and to ensure compatibility with adjacent uses of land.
  4. *Denial.* The Township Board shall deny an application if the special land use does not comply with the standards and requirements of this Ordinance or any provisions specific to the Zoning District that the proposed use is permitted by right.
- D. *Appeals.* Any person aggrieved by a decision of the Township Board in denial of a special land use shall have the right to appeal to the Zoning Board of Appeals at a formal public hearing with proper notice as stated in 3.11, Public Hearing Notice.
- E. *Record.* Each action taken with reference to a special land use review shall be duly recorded in the minutes of the Planning Commission and Township Board meetings. The findings supporting the Commission and Board actions shall be recorded in the minutes. After the minutes have been approved, one (1) copy of the site plan, the final approved minutes, two (2) copies of the special use permit, prepared in accordance with Section 6.04, Special Use Permit, shall be transmitted to the applicant. In addition, the property owner will be required to sign two (2) copies of the special land use permit to be recorded at the Oakland County Register of Deeds at the expense of the applicant. One (1) signed original with a liber and page number stamped by the Register of Deeds must be retained by the Clerk.
- F. *Effect of subsequent site plan approval.* The requirement for site plan approval shall not extend the valid period for Special Land Use Approval under Section 3.10, Expiration of Land Use Approvals. The Board may approve an extension of Special Land Use Approval upon finding that the applicant has provided timely

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responses to concerns, deficiencies, or conditions for site plan approval, Such extension shall be allowed in order to align the validity of the special land use approval with the development schedule approved in the Development Agreement for the site plan, as required under Section 3.12, Development Agreement.

- G. *New application.* An application for the same denied special use on the same parcel will only be considered one (1) year after the date of the denial and will be considered a new application, and shall be required to reinitiate the full review process. If new evidence or conditions have sufficiently changed then, the Planning Commission may consider a new application for the same site within less than a year from the previous denial.
- H. *Standards for special land use.* The Township Board shall approve the proposed special land use if it is determined to be in compliance with the standards and requirements of this Ordinance and the Standards for Site Plan Approval listed in Section 5.04.
1. All special land uses shall be designed, located, planned and operated so that the public health, safety and welfare will be protected.
  2. All special land uses shall be compatible and harmonious with the surrounding land uses taking into consideration the size, location and character of the proposed special land use within the context of surrounding land uses and the Master Plan. Furthermore, the proposed special land use shall not cause substantial injury to the value of other property in the area in which it is located.
  3. The proposed special land use shall be in general agreement with the Master Plan designation for the area where the use is proposed.
  4. All special land uses shall provide facilities for safe and convenient vehicular and pedestrian traffic, including but not limited to: turning movements, traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking, and provisions for pedestrian traffic.
  5. All special land uses shall be designed, constructed and operated in a manner that prevents detrimental impacts to surrounding properties such as noise, dust, fumes, smoke, air, water, odor, light and/or vibration, etc. The special land use shall be designed, constructed and operated in a manner that does not detract from area aesthetics.
  6. The proposed special land use shall not unreasonably burden the capacity of public services and/or facilities.
  7. The proposed special land use shall comply with any specific standards set forth in Article 10, Supplemental Use Regulations, that are applicable to the use.

( Ord. No. Z-006, § 2, 10-14-2015 )

#### **Sec. 6.04. Special land use permits.**

- A. Prior to establishment of the land use, Township staff shall prepare a permit specifying all the terms and understandings relative to the proposed use.
- B. The Special Land Use Permit shall at a minimum provide the following information:
1. Parcel identification number(s) and legal description of the subject parcel(s).
  2. General description of the proposed land use.
  3. General description of any building and site improvements, with reference to approved site plan where applicable.



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4. Date of Special Land Use Approval by Township Board and list of conditions, such as but not limited to, hours of operation, seasonal operating restrictions, restrictions on lighting or outdoor sound systems, traffic patterns, etc.
  5. A statement describing the conditions under which Special Land Use Approval may be nullified, such as cessation of use for one year or more or use of the land in violation of any condition of the Special Land Use Approval.

## **ARTICLE 7. DEVELOPMENT ALTERNATIVES**

### **Sec. 7.01. Residential Cluster Developments (RCD).**

- A. *Intent.* The intent of the residential cluster development (RCD) option is to permit the development of single-family residential patterns which, through design innovation, will:
  1. Allow greater flexibility.
  2. Encourage a more creative approach to the development of single-family residential areas.
  3. Encourage a more efficient, aesthetic, and desirable use of the land.
  4. Provide a more desirable living environment through the preservation and conservation of natural features such as topography, wetlands, woodlands, bodies of water, and other natural features.
  5. Encourage the provision of open space so that benefits may accrue directly to the residents of the development.
  6. Provide for natural views and buffers from all exterior public roads and adjacent properties.
- B. *Applicability.* A RCD may be applied in the ARR, R-3 and R-1.5 Districts. The Zoning Administrator shall determine whether the RCD is processed as a use as of right or a special land use based on the following standards:
  1. As a permitted principle use: An RCD shall be a principal use permitted as of right in the zoning districts described above where a minimum of 50% of the buildable area is permanently preserved in an undeveloped state, subject to standards set forth in Section 7.04. Application for an RCD as a principal use permitted as of right shall be at the option of the applicant.
  2. As a special land use: An RCD shall be a special land use where the applicant desires to use clustering techniques, but does not permanently set aside the minimum of 50% of the buildable area in an undeveloped state consistent with the standards set forth in Section 7.04.
- C. *Site design requirements.* All RCD applications submitted under this option shall conform to the following site design requirements:
  1. *Permitted Uses within a RCD.* Any principal or accessory use allowed by right within the underlying zoning district may be permitted in a RCD.
  2. *Open space.* Open space shall comply with the standards set forth in Section 7.04, Open Space Regulations and the following:
    - a. A minimum of twenty (20%) percent of the gross site area shall be permanently preserved in an undeveloped state as open space.
    - b. Greenbelt and buffer areas. Greenbelts shall be provided along the exterior public roads with a depth measured from the existing right-of-way line, one hundred (100) foot in the ARR District

and fifty (50) foot in the R-3 and R-1.5 Districts. The area of required greenbelt shall be either landscaped or preserved in a natural wooded condition.

- c. There shall be a perimeter setback and buffer of at least twenty-five (25) feet, taking into consideration the use or uses in and adjacent to the development. The setback distance shall be recommended by the Planning Commission, and may be increased to as much as one hundred (100) feet, but need not be uniform at all points on the perimeter of the development.
  - d. The greenbelt and buffer area maybe included in the open space area, provided that the greenbelt area is permanently protected and maintained as regulated by section 7.04, Open Space Regulations.
3. *Density.* The density of dwelling units within a proposed RCD shall not exceed the number of dwelling units permitted in the underlying zoning district. The Planning Commission will determine the maximum number of dwelling units for each RCD based on a review of a sketch parallel plan submitted by the applicant during the preliminary site plan review as described in section 7.01.D.2, Procedures for Review and Approval.
  4. *Dimensional Requirements.* Once the density has been established, the allowable number of dwelling units maybe clustered with lot areas and widths reduced below the minimum requirement of the pre-RCD underlying zoning district. The minimum lot widths within the RCD shall be as follows:

District	Lot Width
ARR	150
R-3	125
R-1.5	100

5. *Building Envelopes.* The following minimum setback requirements for each dwelling unit shall be:

District	Front	Side	Rear
ARR	50	20	50
R-3	30	10	25
R-1.5	25	10	25

No part of a building envelope shall lie within 65 feet of the ordinary highwater mark of a lake, pond, river, stream, or creek.

6. *Required Street Frontage.* Any lot contained within a RCD shall comply with Section 8.13, Required Street Frontage.
- D. *Procedures for review and approval.* Prior to construction of a RCD the applicant shall obtain the required reviews and approvals as described below:
1. *Application submittal.* The applicant shall apply for the RCD approval following the procedures and standards for sketch plan review, in Article 5, Site Plan Review: Procedures and Standards, regardless of whether a Special Land Use approval is required. Where Special Land Use approval is required, the site plan review process shall proceed in parallel with the Special Land Use review process.
  2. *Zoning Administrator review.* The Zoning Administrator shall review the application for completeness and determine whether the application shall be processed as a site plan review only or as a Special Land Use approval and a site plan review.

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3. *Preliminary review.* In addition to a sketch plan of the proposed RCD the applicant shall submit a sketch parallel plan. The parallel plan shall represent a design of the parcel showing the number of lots that could be developed on the site in accordance with the underlying zoning district. The Planning Commission shall review the proposed RCD plan and the parallel plan to determine the maximum number of lots that could be feasibly constructed for this particular RCD, regardless of whether a Special Land Use Approval is required.
  4. *Public hearings (where required).* Projects requiring Special Land Use Approval shall be subject to the review process outlined in Section 6.03, including public hearings during the Planning Commission and Board of Trustees reviews. The project shall not advance to final review of the site plan until the Township Board has ruled on the Special Land Use request.
  5. *Final review.* The applicant shall submit a final site plan for final review under the original application, in accordance with the procedures set forth in Article 5, Site Plan Review Procedures and Standards and conforming to this Section. Preliminary approval is valid for one year after approval of the official minutes of the approving body (Planning Commission for use by right or Board of Trustees for Special Land Use) and if final site plan is not submitted by the applicant for approval within that time, then the sketch plan review becomes null and void.

### **Sec. 7.02. Residential Open Space Planned Unit Developments (RPUD).**

- A. *Intent.* The Residential Open Space Planned Unit Development (RPUD) option is intended to provide an alternative to traditional residential subdivision design in a manner that encourages the preservation of rural character, large areas of open space and greenways, protects valuable natural resources, enhances ecological functions, and requires excellence in site design. These regulations are not intended as a device for subverting the zoning regulations and standards of the Township, nor the planning concepts upon which the ordinance is based. Specifically, the RPUD option is intended to achieve the following purposes:
  1. Permit flexibility in design and use that will result in a higher quality of development and a better overall project than would be accomplished under conventional zoning, and which can be accommodated without sacrificing established community values.
  2. Foster responsible stewardship of the natural environment resulting in the long term protection and preservation of natural resources and natural features.
  3. Encourage retention of the rural atmosphere including the preservation of historic and cultural resources.
  4. Incorporate design elements that unify the site through public amenities, landscaping, lighting, coordinated signage, and pedestrian walks and pathways.
  5. Encourage the use of naturalized landscape design and architectural design that is compatible with the rural surrounding.
- B. *Eligibility.*
  1. RPUD designation of a parcel(s) is an amendment of the official zoning map, subject to the review procedures and standards outlined in Article 19, Changes and Amendments, as well as those of this section. To be eligible for RPUD approval, the applicant must demonstrate that the following criteria will be met:
    - a. The intent of Section 7.02.A, Intent.
    - b. One (1) or more of the following benefits will be provided:

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- i. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
  - ii. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations.
  - c. The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, roads, and utilities.
  - d. The proposed development shall be consistent with the public health, safety, and welfare of the Township.
  - e. The proposed development shall minimize any negative environmental impact on the subject site or surrounding land.
  - f. The proposed development shall minimize any negative economic impact upon surrounding properties.
  - g. The proposed development shall be consistent with the Highland Township Master Plan.
  - h. All property within the RPUD shall be under the ownership or control of a single entity with responsibility and authority for completing the project in conformity with the approved plan. This provision shall not prohibit a transfer of property ownership or control provided that the Township is notified and that any successors shall be bound by conditions of approval.

C. *Design standards.*

1. *Permitted uses within an RPUD.* Any principal or accessory use allowed by right within the Residential districts as listed in Article 4, District Regulations, Section 4.05, Agricultural and Rural Residential District and Section 4.06, Residential Districts, may be permitted in an RPUD.
2. *Density.* An RPUD project shall not be developed more dense than one (1) dwelling unit per five (5) acres for parcels designated Agricultural and Rural Residential on the Master Plan or one dwelling unit per one and a half (1.5) acres for parcels designated Medium and Small Lot Residential or Open Space Residential in the Master Plan except as may be modified by bonus density granted by the Planning Commission under this Section. The Planning Commission will determine the maximum number of dwelling units for each RPUD based on a review of a sketch parallel plan submitted by the applicant during the preliminary site plan review as described in section 7.02.E.3, Procedures for Review and Approval.
3. *Density bonus for exemplary projects.* The Planning Commission and Township Board may allow a variable density credit pursuant to this section. In order to qualify for such increase in density, the applicant shall demonstrate to the satisfaction of the reviewing body that the proposed project exhibits design excellence and exceeds the minimum standards for RPUD eligibility. The bonus density may be awarded for incorporation of the following design elements or planning principles, up to a maximum of thirty (30) percent, in combination as follows:
  - a. Up to ten (10%) percent: For providing dedicated open space configured to preserve and to protect high quality natural features in a non-fragmented fashion and to provide connectivity both within and beyond the development boundaries. Open space shall not consist of long, narrow strips, unless used to conserve a linear natural feature. The density bonus shall be generally awarded on a scale ranging from three (3%) percent for developments dedicating thirty (30%) percent of the gross site area as open space, up to ten (10%) percent for sites dedicating seventy (70%) percent of the gross site area as open space. No bonus density shall be awarded under this provision for sites dedicating less than thirty (30%) percent open space, or for open

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space that does not satisfy the standards of Section 7.02.C.3, Density Bonus for Exemplary Projects. The reviewing body may adjust the scale (not to exceed ten (10%) percent) based on the percentage of units which have direct access to open space.

- b. Up to five (5%) percent: For providing a landscaped perimeter screen in excess of one hundred (100) feet in depth.
- c. Up to ten (10%) percent: For providing central water and sanitary sewer service.
- d. Up to ten (10%) percent: For other design strategies which provide a clear benefit to the residents of the RPUD, the surrounding area and the Township as a whole. The percentage of bonus density shall be determined at the discretion of the Planning Commission based on the expected benefit to the community and the preservation of any unique or significant features of the proposed site.

When the end density calculation results in a whole number of units plus a fractional portion of a unit, the fractional portion shall be rounded up to an additional whole number for decimal equivalents equal to 0.50 or larger, and down to zero for decimal equivalents less than 0.50.

- 4. *Dimensional requirements.* Once the density has been established, the allowable number of dwelling units may be clustered with lot areas and widths reduced below the minimum requirement of the pre-RPUD zoning district, provided that the open space within the development equals or exceeds the total area of lot area reduction.
- 5. *Setbacks within the RPUD project.* The setback requirements of the pre-RPUD zoning district shall be used as guidelines for the RPUD. To encourage flexibility and creativity consistent with the intent of the RPUD regulations, the Township may permit specific departures from the requirements of the Zoning Ordinance. A table shall be provided on the site plan that lists all deviations and regulatory modifications. Deviations shall only be approved through a finding by the Planning Commission that the deviation will result in a higher quality of development that would not be possible using conventional zoning standards. Only those deviations consistent with the intent of this Article shall be considered.
- 6. *Open space.*
  - a. When completed, the development shall have at least twenty percent (20%) of the gross site area in the development devoted to open space, which shall remain in its natural state and/or be restricted for use for active and/or passive outdoor recreational purposes harmonious with peaceful, single-family residential uses in and surrounding the development per the requirements of Section 7.04, Open Space Preservation Provisions.
  - b. Open space shall be provided along the exterior public roads with a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition.
  - c. There shall be a perimeter setback and buffering, of up to one hundred (100) feet, taking into consideration the use or uses in and adjacent to the development. The setback distance shall be recommended by the Planning Commission, and need not be uniform at all points on the perimeter of the development.
  - d. The Planning Commission may recommend a reduction of the perimeter setback and buffering in cases where the density of the proposed use is compatible with adjacent uses and/or natural features such as woodlands and topographical features provide adequate buffering to protect adjacent uses.
  - e. If natural features, such as woodlands and topographical features, do not provide adequate buffering from adjacent property, the perimeter setback shall include noise reduction and visual screening mechanisms such as landscaping, berms and/or decorative walls.

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- f. The amount of open space, including the area and percentage of the site, shall be specified on the site plan.
  - g. In addition to preservation of the most important natural features, additional open space shall be located and designed to achieve the following: provide areas for active recreation; provide areas for informal recreation and pathways convenient to the majority of the residents within the development; connect into adjacent open space, parks, bike paths or pedestrian paths; provide natural greenbelts along roadways to preserve the rural character as viewed from the roads; and to preserve a buffer from adjacent land uses where appropriate.
- D. *Procedure for review and approval.* Prior to construction of an RPUD project, the applicant shall obtain the required reviews and approvals as described below:
- 1. *Pre-application meeting.* Prior to the submission of an application for planned unit development approval, the applicant is required to meet with the Zoning Administrator to review required information and procedures as required in Section 5.03B, Pre-Application Meeting.
  - 2. *Application submittal.* The applicant shall apply for sketch plan review following the procedures and standards outlined in Section 5.03, Site Plan and Sketch Plan Review Procedures and Requirements. The following supplemental application materials are also required:
    - a. A parallel sketch plan that meets the requirements set forth in Article 5, Site Plan Review, Procedures and Standards. A parallel plan shall represent a design of the parcel showing the number of lots that could be developed on the site in accordance with the underlying zoning district.
    - b. A Natural Features Inventory and Stewardship Plan as required in Section 15.02, Natural Features and Inventory and Stewardship Plans.
    - c. An area analysis which shows the location of the project in relation to existing and proposed uses in the surrounding area.
    - d. A project narrative report shall also be submitted by the applicant providing a description of the project and proposed uses, the market concept and feasibility of the project, the manner in which the criteria set forth in Sections 7.02.B, Eligibility, have been met, and the known deviations from current Ordinance requirements and standards.
  - 3. *Sketch plan review procedure.*
    - a. *Staff/consultant review.* The Zoning Administrator shall submit the application, sketch plan and supporting materials to the appropriate staff, consultants, committees or agencies for review and comment.
    - b. *Planning Commission action.* The parallel sketch plan and all supporting information shall be scheduled for a public hearing and review before the Planning Commission. Notice for the public hearing shall meet the requirements for a zoning amendment, as set forth in Section 3.10, Public Hearing Notice. The Planning Commission shall review the sketch plan and all supporting information and make a recommendation to the Township Board. The Planning Commission shall determine the appropriate number of units, and consider whether the project maintains compatibility with surrounding uses, meets the intent of Section 7.02.A, Intent, and satisfies the eligibility criteria of section 7.02.B, Eligibility.
    - c. *Township Board action.* Upon receiving the recommendation of the Planning Commission, the Township Board shall review the sketch plan and all supporting information and take one of the following actions:



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- E. *Effect of approval.* When approved, the RPUD amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvements and uses shall be in conformity with such amendment. Notice of adoption of the final RPUD plan and development agreement shall be recorded at the Oakland County Register of Deeds. The official zoning map of Highland Township shall be revised to reflect the approval.
  - F. *Resolution of ambiguities and ordinance deviations.* The Township Board, based upon the recommendation of the Planning Commission, shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, the Highland Township Master Plan, and other Township standards or policies as a guide.

Notwithstanding the immediately preceding standards, deviations with respect to such regulation may be granted as part of the overall approval of the RPUD, provided there are features or elements demonstrated by the applicant and deemed adequate by the Township Board upon the recommendation of the Planning Commission designed into the project plan for the purpose of achieving the objectives of this Article.

G. *Conditions.*

- 1. Reasonable conditions may be required with the approval of an RPUD, to the extent authorized by law, for the purpose of ensuring 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, protecting the natural environment and conserving natural features, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.
- 2. Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project and those immediately adjacent, and the community as a whole; reasonably related to the purposes affected by the planned unit development; and, necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development.

H. *Phasing and commencement of construction.*

- 1. *Phasing.* Where a project is proposed for construction in phases, the planning and design shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.
- 2. *Construction progress.* Substantial construction shall be completed within two (2) years following final approval of a residential open space planned unit development per Section 3.10, Expiration of Land Use Approvals, and shall proceed towards completion in accordance with an approved development agreement per Section 3.12, Development Agreements.

I. *Amendment and revision.* A developer may request a change in an approved sketch plan, or an approved site plan. A change in an approved sketch plan or change in an approved site plan which results in a major change, as defined in this section, shall require an amendment to the sketch plan and site plan. All amendments shall follow the procedures and conditions herein required for original submittal and review. A change which results in a minor change as defined in this section shall require a revision to the approved site plan and approval by the Township Board following review by the Planning Commission.

- 1. The following changes shall be considered major:
  - a. Change in the concept of the development.
  - b. Change in use or character of the development.



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- c. Change in the type of dwelling unit.
  - d. Change in the number of dwelling units (density).
  - e. Reserved.
  - f. Change in lot coverage or floor area ratio of the entire PUD.
  - g. Change in the character or function of any street.
  - h. Change in land area set aside for common space or the relocation of such areas.
  - i. Change in building height.
2. The following changes shall be considered minor:
    - a. Change in residential floor space.
    - b. Minor variations in layout which do not constitute major changes.
  3. The Planning Commission shall have the authority to determine whether a requested change is major or minor, in accordance with this Section. The burden shall be on the applicant to show good cause as to any requested change.

### **Sec. 7.03. Mixed Use Planned Unit Developments (MPUD).**

Reserved for future use.

### **Sec. 7.04. Open space regulations.**

- A. *Purpose.* Whenever the preservation of open space is required by this Ordinance, the applicant shall provide a demonstrated means that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space development plan.
- B. *Applicability.*
  1. The following areas shall not be counted as open space:
    - a. The area within a public street right-of-way or private road access easements or other easements that include roads, drives or overhead utility lines.
    - b. The area within any manmade stormwater detention or retention pond.
    - c. The area of a golf course.
  2. At least fifty (50%) percent of the required open space must be contiguous and usable for passive or active recreation use (not including wetlands, water bodies or required landscaped buffers) and must meet the definition of buildable area. The Planning Commission may choose to divide the contiguous space requirement into multiple areas when the applicant demonstrates that the open space plan provides areas suitable for such outdoor recreation activities as walking paths, fitness stations, children's play yards, ball fields or similar uses. The applicant is further encouraged to consider the uses of other publicly and privately held open space in near proximity, and to strive to provide diverse opportunities for recreation.

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3. An open space plan must include calculations of areas set aside as open space, a description of the function or benefit such space confers upon the residents or the community at large, and a discussion of how the open space will be managed and maintained.
  4. Natural features of the site shall be preserved to the greatest extent possible. The configuration of open space should provide connections to other greenways to promote wildlife migration and preserve habitat. Open space shall include a buffer between natural features and lot lines so as to discourage encroachment. Deed restrictions or covenants shall restrict activities within the buffer zone that might lead to impairment of the natural feature.
- C. *Conveyance.* All required open space must be set aside through an irrevocable conveyance found acceptable to the Township Attorney. Acceptable means for conveyance include:
1. The Owner may grant an easement to a preservation or monitoring organization.
  2. Transfer of ownership. The Owner may transfer ownership of the open space or natural feature to a preservation and/or monitoring organization with the condition that the land remains undeveloped as a means of protecting the land from any use or degradation.
  3. Condominium association or homeowner's association ownership. The Developer may dedicate the open space to the appropriate association, provided the bylaws and deed restrictions provide for the long term preservation, maintenance and monitoring of the open space.
- D. *Delineation.* The limits of mandatory open space shall be delineated on the ground by markers acceptable to the Planning Commission.

## **ARTICLE 8. GENERAL PROVISIONS**

### **Sec. 8.01. Intent.**

The intent of this Article is to provide regulations that apply to any and all districts in the Township, regardless of whether the existing or proposed land use, structures and site improvements are subject to site plan review and approval.

### **Sec. 8.02. Area, height and use exceptions.**

The regulations in this Ordinance shall be subject to the interpretations and exceptions set forth below:

- A. *Voting place.* Any property in the Township may be temporarily used as a voting place in connection with a municipal or other public election.
- B. *Height limit.*
  1. Height exceptions. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, except as set forth herein.
    - a. Roof structures and screening devices for the housing of elevators, stairways, tanks, ventilating fans, solar panels or similar equipment required to operate and maintain the building shall not exceed by more than ten (10) feet the height limit of the district in which the use is located.
    - b. Fire or parapet walls and skylights shall not exceed by more than five (5) feet the height limit of the district in which the use is located.

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- c. Functional elements such as chimneys, smokestacks, or similar structures shall not exceed by more than fifteen (15) feet the height limit of the district in which the use is located. In no event may persons occupy such building elements.
  - d. Decorative elements such as steeples, belltowers, cupolas and widow's walks shall not exceed by more than fifteen (15) feet the height limit of the district in which the use is located.
  - e. The combined area of all building elements that are permitted to exceed district height limits shall be no greater than ten percent (10%) of the roof area of the building; nor shall such structure be used for any residential, commercial, or industrial purpose whatsoever other than a service use incidental to the main use of the building.
  - f. The provisions of this Section do not apply to wireless communication facilities regulated by Section 10.24, Wireless Communication Facilities.
- 2. Individual domestic antennas, amateur radio antennas and satellite dish antennas.
    - a. Individual domestic antennas and amateur radio antennas in agricultural and residential districts may be constructed to a height of fifty (50) feet provided the structure is located so that the base of the structure is no closer to any property line than the height of the structure.
    - b. Satellite dish antennas may be attached to a structure not exceeding a height of 50 feet.
    - c. No such structure shall be placed in a front yard or attached to a tree.
  - 3. Flagpoles in any zoning district shall be located so that the base of the structure is no closer to any property line than the height of the structure. Any flagpoles in excess of fifty (50) feet in height are subject to site plan approval.
- C. [Reserved.]
  - D. Architectural projections such as bay windows and roof overhangs which do not expand usable floor space, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard. Such projections may extend or project into a required front or rear yard not more than three (3) feet.
  - E. *Irregular frontage lots.* Irregular frontage lots are permitted under this ordinance as follows:
    - 1. Such lots shall have a total area equal to or greater than the minimum lot area required by this Ordinance for the applicable zoning district in which the lot is located.
    - 2. The minimum width of the front lot line shall not be less than sixty (60) feet.
    - 3. The lot is of such size and configuration so as to completely contain within its boundaries a rectangle, trapezoidal or triangular shaped area of land which:
      - a. Has a minimum width equal to the minimum lot width of the district
      - b. Has a minimum buildable area equal to the minimum buildable area of the district.
    - 4. The Township Zoning Administrator may require a survey prepared by a land surveyor registered in the State of Michigan to demonstrate that Ordinance requirements have been met.
  - F. *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley for the purpose of applying lot area and setback requirements of this Ordinance, one-half (½) the width of such alley abutting the lot shall be considered part of such lot.

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- G. *Generators.* Generators may be placed in required side yard setbacks subject to the following restrictions:
1. The generator may only encroach on the side yard setback on the side of the structure where the main feed drop enters the structure and only if necessary to place the generator within fifteen (15) feet of the drop.
  2. The generator may encroach on the required side yard by no more than forty (40) percent of the required side yard setback.
  3. The generator shall not be placed nearer to the property line than three (3) feet.
  4. The generator shall not be placed nearer to any window or door opening than six (6) feet.
  5. The generator shall be muffled to deaden noise in compliance with Chapter 12, Noise, Blight and Other Nuisances of the Highland Township Code of Ordinances.
  6. The generator shall be programmed to "exercise" only between the hours of 10:00 a.m. and 2:00 p.m.

( Ord. No. Z-005, § 3, 3-11-2015 )

### **Sec. 8.03. Accessory structures and uses.**

A. *Structures and uses accessory to residential use.*

1. *Height and placement.* Accessory buildings, structures and uses shall be governed by the same height and placement regulations which apply to principal buildings unless otherwise specified in this Ordinance.
2. *Relation to principal structure.*
  - a. Accessory buildings, structures, and uses are permitted only in conjunction with, incidental to, and on the same lot as a principal building occupied with a use permitted in the particular zoning district.
  - b. An accessory building, structure, or use shall not be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
  - c. Garages that are structurally attached to a principal building by connection of walls or a roof shall be subject to, and must conform to, all regulations of this Ordinance applicable to the principal building, including setbacks, height and lot coverage.
3. *Residential entrance way.*
  - a. In all Residential Zoning Districts, entrance way structures including but not limited to decorative walls, columns and gates marking entrances to a single family subdivisions, multiple-family housing projects and mobile home parks may be permitted within a required yard provided such structures are a minimum of five (5) feet from a public road right-of-way. All structures must be placed outside the required corner clearance area per Section 11.05, Clear Vision Area, and beyond any required greenbelt per Section 12.06, Greenbelt. Entrance way structures are subject to site plan review, require a building permit and must comply with all codes of the Township.
  - b. Entrance Way columns marking driveway entrances to a single family dwelling may be permitted within required yards provided the columns are a minimum of five (5) feet from a public or private road right-of-way and do not exceed a height of eight (8) feet.
4. *Porches, decks, terraces and patios.*

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- a. *Uncovered porches.* An open, unenclosed and uncovered porch, patio, deck or terrace, including those constructed on the ground and/or constructed of brick, concrete or pavers may project into a required front, side or rear yard setback providing the following standards are met:
    - i. The highest finished elevation of the uncovered porch shall not be over thirty (30) inches above the surrounding finished grade; and
    - ii. The uncovered porch may project into any required yard setback for a distance not exceeding five (5) feet.
    - iii. No portion of the uncovered porch shall be closer than five (5) feet from any lot line.
  - b. *Second story decks.* Uncovered second story decks, including any walkway connecting the second story deck to a first story deck, a ground-level deck, or a deck located above a walk-out basement may project into a required yard up to a maximum of five (5) feet.
  - c. *Covered porches.* Porches, decks or terraces sheltered partially or wholly by a permanent or temporary canopy, awning, metal, lattice, pergola or any other material shall be considered covered. Covered porches, decks and terraces are subject to the setbacks applicable to the principal structure, as set out in the applicable zoning district regulations and shall not project into any required yard setback.
5. *Swimming pools, hot tubs and spas.* Swimming pools, hot tubs and spas shall be subject to the following regulations in addition to all building codes:
- a. Any swimming pool shall meet the minimum setbacks required of accessory structures in the applicable Zoning District.
  - b. There shall be a distance of not less than ten (10) feet between the outside pool wall and any building located on the same lot.
  - c. No swimming pool shall be located less than thirty-five (35) feet from any front lot line or any existing dwelling unit on an abutting property.
  - d. No swimming pool shall be located in an easement.
  - e. For the protection of the general public, all areas containing swimming pools shall be completely enclosed by a fence or an approved structure providing equal protection not less than four (4) feet in height. The gates shall be of self-closing and latching type, with the latch on the inside of the gate not readily accessible for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods.
6. *Play structures, tree houses and skateboard ramps.* Play structures, tree houses, skateboard ramps and similar structures on residential lots shall be permitted as an accessory structure and shall be subject to the setback and height requirements together with all other applicable building codes and ordinances.
7. *Driveways and paths.* There is no restriction on the placement or construction of driveways and paths so long as they are maintained without encroaching on neighboring properties with regards to snow removal, drainage and maintenance.
- B. *Structures and uses accessory to non-residential uses.*
- 1. *General requirements.*
    - a. All buildings, uses, or structures accessory to non-residential uses shall be subject to the same placement and height requirements as the principal structures in the District in which they are located.

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- b. Buildings, uses, or structures accessory to non-residential uses shall not be larger than twenty-five percent (25%) of the total ground floor area of the principal building or building that it serves, unless otherwise regulated in this ordinance.
  - c. Accessory buildings, structures or uses are not permitted on vacant parcels.
2. *Outdoor display and sales in commercial districts.* Outdoor display and sales are subject to the following:
- a. Outdoor display and sales are considered an accessory use to a principal permitted retail use provided there is a building on the retail site. All outdoor display and sales areas must be reviewed and approved by the Planning Commission as part of an approved site plan.
  - b. All outdoor display areas shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose of stormwater without adversely impacting adjacent property. The Planning Commission may approve a gravel surface for all or part of the display area for low intensity activities, such as landscaping sales, upon a finding that the neighboring properties will not be negatively impacted by pollution. Spill control measures may be required such as containment curbs and covered shelters for materials deemed to pose an environmental risk, such as, but not limited to, fertilizers, softener salt, pesticides, and the like.
  - c. Any stockpiles of soils, mulch or similar loose materials shall be contained to prevent dust or blowing of materials.
  - d. Outdoor displays shall not be placed on sidewalks unless five (5) feet of contiguous sidewalk is maintained for clearance between the display and any permanent structure such as building or curb.
  - e. Outdoor display areas shall not occupy any required parking spaces.
  - f. Outdoor display areas shall not be located in any required yards.
  - g. The Planning Commission may require additional landscaping or screening.
3. *Temporary outdoor promotional events.* The Zoning Administrator is authorized to review and approve land use permits for temporary promotional events, subject to the following:
- a. Temporary outdoor promotional events may be permitted for periods not to exceed thirty (30) days on sites zoned C-1, Local Commercial; C-2, General Commercial; or HS, Highland Station. A permit may be issued twice a year for thirty (30) days each. At least 60 days must pass between each event. In multiple tenant developments, events shall be coordinated with all tenants and one application shall be submitted for the site.
  - b. Items offered for sale and services must be related to an established business already located on the site. Outdoor sales and/or outdoor consumption of alcoholic beverages is not permitted under the provisions of this Ordinance. Except that an establishment that has a valid liquor license may serve alcoholic beverages provided appropriate permits are secured from the Liquor Control Commission.
  - c. Outdoor displays and sale areas shall not occupy or obstruct the use of any fire lane, sidewalk or landscaped area. Such areas may occupy no more than ten percent (10%) of the parking lot, provided the applicant demonstrates that the resultant traffic patterns will not create a hazard or nuisance.
  - d. Outdoor displays and sale areas shall meet all required setbacks from property lines abutting residentially zoned or used properties. The use must be screened from the residential use and may not encroach into the required greenbelt see Section 12.06, Greenbelts.

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- e. Temporary signs associated with the event, such as banners and sandwich boards, are regulated under Section 14.07G, Temporary Commercial Special Event Signs. Only one sign per business may be approved. For multiple-tenant sites, the number of signs is limited to one sign per tenant or one sign for forty (40) lineal feet of frontage whichever is less.
  - f. Any temporary outdoor sound system must be operated so that no sound is conveyed beyond the property line.
  - g. The exterior of the premises shall be kept clean, orderly and well-maintained.
  - h. The applicant must make application on a form to be provided by the Zoning Administrator and accompanied by a narrative describing the promotional event, a plot plan and application fee.

#### **Sec. 8.04. Temporary buildings, dwellings, structures and uses.**

Temporary buildings, dwellings, structures and uses shall be permitted with a land use permit issued by the Zoning Administrator and when all other Ordinance requirements have been met.

- A. *Temporary buildings for sales.* One (1) Temporary building for the sales and marketing of a private development project is permitted if the temporary building was approved as part of the site plan and all other Ordinance requirements have been met. The building shall be permitted until ninety percent (90%) of the lots or units are sold.
- B. *Temporary sales offices.* One (1) Temporary sales office for the marketing and sales of a private development project shall be permitted in an approved dwelling unit. The use shall be restricted to sales activities related to the site or development on which it is located and shall have valid building permits and/or Development Agreement in place as determined by the Zoning Administrator. The building shall be permitted until ninety percent (90%) of the lots or units are sold.
- C. *Temporary construction buildings and structures.* Temporary structures used as offices and storage by contractors, construction personnel and homeowners are permitted. Temporary facilities include but are not limited to: construction trailers, dumpsters, storage containers and portable toilets. Use of said structures shall be restricted to construction activities related to the site or development on which they are located and must have valid building permits and/or Development Agreements in place as determined by the Zoning Administrator.
  - 1. *Setbacks.* Setbacks may be varied but shall be determined based on review of site conditions and the use of the temporary structure. The minimum set back from existing structures shall be no less than six (6) feet.
- D. *Temporary dwellings.* Temporary dwellings may be permitted upon a finding by the Zoning Administrator that:
  - 1. The principal dwelling has been destroyed in whole or in part by fire, explosion or natural disaster and therefore is unsuitable for use; or
  - 2. The principal dwelling is under construction by the occupant of the temporary dwelling.
- E. *Temporary residential accessory structures.* Are permitted with an approved land use permit issued by the Zoning Administrator.
  - 1. Temporary residential accessory structures such as dumpsters, storage containers, portable toilets, may be permitted for a period of thirty (30) days.
  - 2. Temporary residential accessory structures such as tents for garage sales and family events may be permitted for a period not to exceed seven (7) consecutive days. A land use permit is not necessary for garage sale or family event tents.

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F. *Permit application and review standards.*

1. An application for a permit for temporary building, dwelling, structure or use shall be made to the Zoning Administrator. The application shall be accompanied by a plot plan showing the location of each proposed structure, water supply and sewage treatment facilities.
2. The application shall be reviewed by the Zoning Administrator. Approval of the application may be granted upon a finding that all of the following conditions are met:
  - a. The temporary dwelling, building, structure or use shall be served by and properly connected to approved water supply and sewage treatment facilities.
  - b. The temporary dwelling or building shall comply with all applicable Zoning District requirements including setback, area, bulk, and other requirements, except minimum size requirements.
3. The permit for a temporary dwelling, building or structure shall be valid for six months and may be extended for demonstrated cause for a maximum of one (1) year from the date of initial approval. Any conditions of approval shall be specified in writing on the permit. The temporary dwelling or building or structure shall be placed in accordance with all applicable building codes and standards. The permit shall run with the building permit and shall be revoked if building permit is closed.
4. No permit shall be issued until a cash bond has been posted in an amount to be determined by the Zoning Administrator to guarantee compliance with the provisions of the Ordinance and removal of the temporary dwelling upon expiration of the permit.

**Sec. 8.05. Accessory dwelling units.**

A. *Accessory dwelling units in single family residential zoning districts.*

1. One (1) accessory dwelling unit may be permitted under the following conditions:
  - a. The accessory dwelling unit is located entirely within the principal buildings, including space in attached garages, and shall be prohibited in any detached accessory structure.
  - b. The accessory dwelling unit is on a parcel of at least twelve thousand (12,000) square feet.
  - c. Accessory dwelling units shall be prohibited in any basement.
  - d. The site must provide off-street parking for at least four (4) vehicles.
2. The exterior of the principal building shall retain the residential character of a single-family home. The principal building shall not be modified to give the appearance of being divided into separate units. Access to an accessory dwelling unit shall be limited to a common front foyer or a separate entrance door on a side or rear wall. The use of exterior stairways to provide access to upper floor accessory dwelling unit is prohibited.
3. An accessory dwelling unit shall have a minimum gross floor area of three hundred-fifty (350) square feet, and may not occupy more than twenty-five percent (25%) of the principal building gross floor area.
4. The principal building shall be the primary and permanent legal residence of the owner(s) of the property. The owner(s) of the property shall occupy a minimum of fifteen hundred (1,500) square feet of gross floor area within the principal building. Permitted accessory dwelling units shall be clearly secondary to the use of the dwelling as a single-family residence.
5. No accessory dwelling unit shall be issued a separate street address.



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6. An accessory dwelling unit requires a land use permit. The Zoning Administrator may require any supporting documentation such as a plot plan, floor plans and building elevations. The property owner must submit a notarized affidavit affirming their residence in the principal dwelling unit. The Zoning Administrator may periodically require that such affidavit be renewed.

B. *Accessory dwelling units in office and commercial zoning districts.*

1. Accessory dwelling units shall be contained entirely within the principal building.
2. Ground floor accessory dwelling units shall occupy no more than twenty five percent (25%) of the gross floor area of the building.
3. Second story accessory dwelling units shall occupy no more than fifty percent (50%) of the gross floor area of the building.
4. Each accessory dwelling unit shall have a minimum gross floor area of three hundred fifty (350) square feet and in no instance shall the accessory dwelling unit occupy more than a total of fifty percent (50%) of the gross floor area of the building.
5. Accessory dwelling units shall not be located in any basement.
6. Each accessory dwelling unit shall have a separate kitchen, bath and toilet facilities and a private entrance. Where there is more than one (1) accessory dwelling unit in a building, such entrances may be provided from a common hallway.
7. All accessory dwelling units shall require a land use permit, and are subject to special land use approval by the Township Board and site plan approval by the Planning Commission.

**Sec. 8.06. Home occupations.**

It is the intent of this section to establish minimum standards to allow for the operation of home occupations in residential zoning districts. It is not the intent of this section to prohibit hobbies which are clearly for the enjoyment of the resident and not for the purpose of generating or supplementing income. In determining whether an activity may be classified as a home occupation, the following factors shall be considered:

- A. Only an immediate family member residing on the premises may conduct a home occupation. Outside employees are not permitted.
- B. There shall be no sign or display that will indicate from the exterior of the building that it is being utilized in whole or part for any purpose other than as a dwelling.
- C. No substances shall be used except such that is normal for domestic or household purposes.
- D. Not more than two (2) clients, customers or business associates shall visit the premises at one time. A professional person may use their residence for infrequent consultation, emergency treatment or performance of religious rites, but not for the general practice of their profession.
- E. The site must provide adequate off street parking for the home occupation and dwelling unit.
- F. No accessory building other than a garage shall be used for such home occupation.
- G. No outdoor storage or activity shall be permitted in connection with a home occupation.
- H. A home occupation shall not result in any continuous, intermittent, pulsating or other noise which can be heard outside of the home or garage in which it is conducted.
- I. Land use permits are required for any home occupation except where:
  - 1) No public (e.g., patients, customers, clients) is invited to the residence for business purposes; and

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- 2) The business does not consume or generate materials or products requiring deliveries other than those customarily incidental to residential use.

The applicant must complete an application form provided by the Township which affirms their residence in the principal dwelling unit along with two supporting pieces of evidence of their residency such as lease agreements, utility bills, state-issued identification or driver license. The Zoning Administrator may require supporting documentation such as a plot plan, floor plans, and building elevations. If the applicant is not the property owner, he shall submit a notarized letter from the property owner(s) authorizing application for the home occupation. The Zoning Administrator may require such affidavit be renewed, and may make periodic inspections to determine compliance.

There are uses and activities which are not compatible with residential use. Many, but not all such uses are listed in Article 4 under OS, C-1, C-2, IM and TR District Regulations. Such uses shall not be permitted as a home occupation. The Zoning Administrator may consider not only the factors listed above, but also evidence such as patterns of customer, employee and truck traffic, and advertising efforts in determining that a use shall not be established or continued as a home occupation.

- J. Medical marihuana activities are permitted as home occupation, subject to the following limitations:
  1. All medical marihuana activities shall be conducted in full compliance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law as amended.
  2. All medical marihuana activities shall be conducted in full compliance with all applicable building and fire codes.
  3. Medical marihuana dispensaries, cooperatives, or other joint or shared growing facilities are expressly prohibited.

( Ord. No. Z-005, § 3, 3-11-2015 )

### **Sec. 8.07. Commercial and recreational vehicle parking in residential districts.**

- A. *Commercial vehicle parking and storage in residential districts.* In all residential zoning districts, the parking or storage of any commercial vehicle is prohibited except that one (1) such vehicle per dwelling unit may be parked or stored within a building. This requirement shall not apply when the vehicle and/or trailer is present for the purpose of providing a required service to the residence and limited to the period of time in which the service is rendered.
- B. *Recreational vehicle parking and storage in residential areas.* Recreational vehicles or units may be parked or stored on any lot or parcel in agricultural or single-family residential zoning districts and on parcels where the principal use is a single-family residence in the HS, Highland Station zoning district, subject to the following requirements:
  2. Any recreational vehicle or unit may be parked or stored in a garage.
  3. Two (2) recreational vehicles or units may be parked or stored outdoors on any lot occupied by a single-family dwelling.
  4. In all agricultural, single family districts or on parcels where the principal use is a single-family residence, recreational vehicles or units shall not be parked or stored in any required side or rear yard, except in the HS, Highland Station and LV, Lake and Village Residential districts, recreational vehicles or units shall not be parked or stored any closer than three (3) feet to any side or rear lot line. Recreational vehicles shall not be parked so as to block sight lines to lakes from neighboring parcels.
  5. Any recreational vehicle or unit parked or stored in the front yard shall not be allowed in the required yard unless the vehicle or unit is in a driveway. No recreational vehicle or unit may be placed so as to

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create a safety problem with sight distances from adjacent driveways or so as to create a nuisance. No recreational vehicle or unit shall be parked or stored in the road right-of-way.

6. Only recreational vehicles or units owned by and titled to a permanent resident of the residential parcel may be parked or stored on said parcel.
7. Recreational vehicles or units parked or stored shall not have permanent connections to water, gas, a septic system or a sanitary sewer system.
8. Recreational vehicles or units may not be used for living, sleeping or household purposes for more than fifteen (15) days in a calendar year.

### **Sec. 8.08. Outdoor storage.**

#### *A. Outdoor storage in residential districts.*

1. Outdoor storage on parcels zoned or used for residential purposes shall be permitted in side or rear yards when completely screened from view by a fence or landscaping.
2. Outdoor storage shall not be permitted in front yards.
3. Outdoor storage shall not be permitted on individual lots in manufactured housing parks or in multiple-family residential developments.
4. Storage that is not related to the principal use is not permitted.

### **Sec. 8.09. Fences and screening structures.**

#### *A. Residential districts.*

1. No fence or other screening structure shall exceed six (6) feet in height in a side or rear yard.
2. In required front yards, only decorative fences, forty-eight (48) inches or shorter, shall be permitted.
3. On lakefront lots, fences and other screening structures which are located between the main building and the ordinary high water mark shall be open air type with no more than twenty percent (20%) opacity, and shall have a ten (10) foot setback from the ordinary high water mark.
4. Fences or other screening structures shall consist of materials commonly used in conventional construction, including, but not limited to wood, metal, vinyl, masonry brick or natural stone. If one side of the fence or other screening structure has a more finished appearance than the other, then the side with the more finished appearance shall face the exterior of the parcel.
5. Fences or other screening structures shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed.
6. Barbed wire or other similar fences shall not be permitted.
7. Above-ground single-strand wire or braided-wire fences, whether charged with low-voltage electricity or non-charged, are permitted for the enclosures of livestock only.
  - a. If the livestock is removed, any electric fencing must be disabled or removed.
  - b. All single-strand wire or braided wire fences must provide for enhanced visibility by one of the following means:
    1. Minimum three (3) inch solid top rail;
    2. Brightly colored ribbon installed alongside the wire

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3. Reflectors or florescent tape affixed along the wire at a minimum spacing of eight (8) feet.
  8. Invisible fences for all animals are permitted.
  9. Reserved.
  10. Wire panel fences or rolled wire grid may be installed wherever fencing is typically allowed, with the exception of required front yards.
- B. *Non-residential districts.*
1. Fences shall be permitted in the rear or side yard of non-residential districts and shall not extend in front of the principal building.
  2. Height shall not exceed eight (8) feet in height.
  3. Fences or other screening structures shall consist of materials commonly used in conventional construction, including, but not limited to wood, metal, vinyl, masonry brick or natural stone. If, because of the design or construction, one side of the fence or other screening structure has a more finished appearance than the other, the side of the fence or other screening structure with the more finished appearance shall face the exterior of the lot.

( Ord. No. Z-010 , § 3, 10-11-2017)

### **Sec. 8.10. Grading and retaining walls.**

Site grading shall be coordinated with adjacent properties so as to avoid a significant grade differential resulting in steep slopes which exceed twelve percent (12%) or necessitate consideration of a retaining wall. However, walls constructed to stabilize slopes or to hold back soils shall not be placed in required front, side or rear yards except where the finished slope above the wall is no higher than natural grade prior to excavation or placement of fill materials. The natural grade shall be determined by review of a topographic survey or Oakland County Geographic Information Systems data. Where a wall is placed to withhold manmade embankments, the height of the wall shall be no more than eight (8) feet high. Terracing shall be implemented when feasible, and landscaping shall be utilized to soften the visual impact of walls. Walls must be placed outside the required corner clearance area per Section 11.05, Clear Vision Area. Building permits are required for any wall over forty-eight (48) inches above grade. Retaining Wall is illustrated in Figure 2.14.

### **Sec. 8.11. Required street frontage.**

Any parcel of land which is to be occupied by a use or building shall have frontage on and direct access to a public street or private road which meets one of the following conditions:

- A. A public street which has been accepted for maintenance by the county road commission;
- B. A permanent and unobstructed existing private road of record; or
- C. A private road designed and constructed in accordance with Township standards and approved by the Township.

### **Sec. 8.12. Residential tree requirements.**

There shall be at least one tree in the front yard for each residential unit. The required tree may be existing or newly planted. The required tree shall be selected, installed and maintained according to the provisions of Article 12, Landscaping, and cannot be counted towards meeting other landscaping requirements of Article 12, such as street trees, green belts, screening, or parking lot landscaping.

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### **Sec. 8.13. Manufactured housing standards.**

Manufactured housing located outside of a manufactured home park shall meet the following provisions:

- A. Not more than one (1) residential unit shall be permitted per parcel.
- B. The lot on which a manufactured home is located shall meet all minimum lot size, setback, yard area, parking and all other pertinent zoning ordinance requirements. The manufactured home shall meet the minimum square foot requirements of the zoning district in which it is located.
- C. It shall be firmly and permanently attached to a solid foundation or basement not less in area than the perimeter area of the dwelling. The foundation and/or basement shall be constructed in accordance with the current construction codes as adopted by the Township.
- D. It shall not have any exposed wheels, towing mechanism or undercarriage.
- E. It shall be connected to a public sewer and water supply, if available, or to private facilities approved by the Oakland County Health Department.
- F. It shall comply with the current building and fire codes adopted by the Township for single-family dwelling units. A building systems report shall be required or the following standards shall be met and it shall be the responsibility of the Township Zoning Administrator to determine whether these standards are met, based upon a determination that all of the following conditions exist:
  - 1. It shall be aesthetically comparable in design and appearance to conventionally constructed homes found within one thousand (1,000) feet of the proposed mobile/manufactured home.
  - 2. The proposed manufactured home will have a combination of roof overhang and pitch of conventionally constructed homes typically found within one thousand (1,000) feet of the proposed manufactured home.
  - 3. The proposed manufactured home will have steps and/or porches which provide access to exterior doors, which are permanently attached to the ground and to the mobile/manufactured home structure, and which are comparable to steps and/or porches of conventionally constructed homes typically found within one thousand (1,000) feet of the proposed manufactured home.
  - 4. The proposed manufactured home will be covered with a siding material which is in color, texture, malleability, direction of joist and method of fastening to the structure comparable to siding of conventionally constructed homes typically found within one thousand (1,000) feet of the proposed manufactured home.
  - 5. The proposed manufactured home will have the glass on its windows recessed at least one and one half (1½) inches behind the exterior surface of its siding.
  - 6. The proposed mobile/manufactured home will have front and rear or front and side exterior doors as such a combination of doors is found in a majority of the conventionally constructed homes within one thousand (1,000) feet of the proposed manufactured home.
  - 7. The proposed manufactured home will have a one-car garage or a two-car garage if such a garage is found in a majority of the homes within one thousand (1,000) feet of the proposed manufactured home. Said garage shall be attached to the principal structure if a majority of the garages within one thousand (1,000) feet are attached to the principal structure.

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### **Sec. 8.14. Sanitary sewers or onsite sewage disposal.**

Before a building permit is issued for construction or alteration of a dwelling or commercial or industrial building, or a land use permit is issued for a business, an owner must first submit one of the following:

- A. A permit to install an individual on-site sewage disposal system issued by the Health Division of Oakland County or State of Michigan; or
- B. An inspection report from a septic system contractor verifying acceptable operation and capacity of an existing onsite sewage disposal system; or
- C. A Connection Permit for connection to an available public sanitary sewer system; or
- D. A Connection Permit for a community onsite sewage disposal system in accordance with the terms and conditions of the Highland Township Sewer and Water Ordinance.

### **Sec. 8.15. Water supplies.**

Before a building permit is issued for construction of a dwelling or commercial or industrial building, an owner must first submit one of the following:

- A. A permit to install an individual on site water well system; or
- B. A Connection Permit for connection to an available public water supply; or
- C. Township Board approval of a community water supply system or extension of an existing public water supply system in accordance with the terms and conditions of the Highland Township Sewer and Water Ordinance.

### **Sec. 8.16. Stormwater management.**

As part of each approved site plan for a single-family or multiple-family development, or commercial or industrial business, an applicant must provide an acceptable stormwater management system designed in accordance with the Highland Township Engineering Design Standards and the provisions of Section 15.03, Stormwater Management.

### **Sec. 8.17. Environmental performance standards.**

- A. *Intent.* All uses in Highland Township shall adhere to all standards and regulations set forth in this Ordinance including the following:
  - 1. *Airborne emissions.*
    - a. *Smoke and air contaminants.* It shall be unlawful for any person, firm or corporation to permit the emission of any smoke or air contaminant from any source whatsoever to a density greater than that permitted by Federal or State standards. It shall be unlawful to discharged from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment or nuisance to the public or which endanger the comfort, repose, health or safety of persons or which cause injury or damage to business or property.
    - b. *Odors.* The creation of offensive odors is prohibited. This requirement is not intended to interfere with the operation of a farm, as defined by this Ordinance, which is lawful pursuant to the Michigan Right to Farm Act, as amended.
  - 2. *Noise.*

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- a. The emission of measurable noises from the premises shall not exceed sixty (60) decibels as measured at the adjoining property lines in all districts except that the IM District shall not exceed seventy (70) decibels during normal work period between 6 a.m. and 10 p.m.
  - b. Objectionable sounds of an intermittence nature, or sounds characterized by high frequencies, even if falling below the allowed decibel readings, shall be controlled so as not to become a nuisance to adjacent uses.
  - c. Air-raid sirens and related apparatus used solely for public purposes are exempt from this requirement.
  - d. Outdoor speakers which can be heard beyond the property boundaries of any use shall be prohibited.
  - e. Use of outdoor commercial and industrial truck loading and unloading spaces within two hundred (200) feet of a residential district shall be prohibited between the hours of 10:00 pm and 6:00 am.
3. *Vibration.*
    - a. No Vibration shall be permitted which is discernible without instruments on any adjoining lot or property.
    - b. Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.
- B. *Waste disposal.* All solid, liquid, sanitary and hazardous wastes shall be treated and disposed of in accordance with the standards of the Oakland County Health Department and the Michigan Department of Environmental Quality (MDEQ). Treatment or disposal of waste shall not create a hazard or nuisance to neighboring uses.
- C. *Electrical disturbance, electromagnetic, or radio frequency interference.* No use shall:
1. Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance.
  2. Cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.
- D. *Hazardous substances.* Use, storage, handling and disposal of hazardous substances shall meet the following standards:
1. Hazardous waste shall be treated and disposed of in accordance with the standards of the Oakland County Health Department and the Michigan Department of Natural Resources and Environment (MDNRE). Treatment or disposal of waste shall not create a hazard or nuisance to neighboring uses.
  2. It shall be unlawful for any person, firm, corporation or other legal entity to pollute, impair or destroy the air, water, soils or other natural resources within the Township. The use, storage, handling and/or disposal of hazardous substances and/or wastes in the form of solid, liquid, gaseous and/or sanitary wastes shall com.
  3. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall complete and file an Environmental Permits Checklist on a form supplied by the Township in conjunction with the following:
    - a. Upon submission of a site plan;
    - b. Upon any change of use or occupancy of a structure or premise; or

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- c. Upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.
  4. Prior to Township approval of the business or expansion which uses, stores or generates hazardous substances, the Environmental Permits Checklist shall be reviewed by the Township Fire Department for comment. In addition to Fire Department review, the Township may elect, at the applicant's cost, to use an independent consultant to review the Environmental Permits Checklist. The independent consultant's review shall determine the effects of the proposal on the local environment. All business and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month (per the Environmental Permits Checklist) shall comply with the following standards:
    - a. *Above ground storage.*
      - i. Hazardous substances shall be stored only in product-tight containers.
      - ii. Secondary containment of hazardous substances shall be provided for all facilities. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
      - iii. Outdoor storage of hazardous substances is prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism through secondary containment. 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.
      - iv. State and federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.
    - b. *Underground storage.* State and federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.

### **Sec. 8.18. Essential services.**

Essential services shall be permitted as authorized under any franchise in effect within the Township, or as installed as part of any municipally owned public utility, subject to all applicable local, state and federal laws and regulations.

It is the intent of this Section to ensure conformity of all structures and uses to the requirements of the District in which the essential service is established wherever such conformity is practicable and not in conflict with the specific requirements of said franchise, or applicable laws and regulations. In the absence of such conflict, the Zoning Ordinance shall prevail.

Wireless communications facilities are defined as an essential service only where located on Township-owned sites incorporated into the Township's or County's emergency communication network or are associated with another authorized essential service.

Wireless communications facilities determined not to meet this definition are regulated as a special use under Section 10.24, Wireless Communication Facilities.



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**Sec. 8.19. Display of sexually explicit materials in businesses other than those regulated as an adult business.**

The Township recognizes that some businesses who sell and display sexually explicit materials as part of their inventory, but will not meet the standards requiring regulation under Section 10.03, ADULT ORIENTED BUSINESS AND OTHER REGULATED USES. Such businesses shall be governed by the following restrictions:

- A. No more than 29% of the stock in trade or interior floor space may be utilized for the display or sales of sexually explicit items or materials. "Sexually explicit" items or materials shall be located in an area in the rear of a building, restricted for adult access only, away from the main entrance. This restricted area shall be separated from the remainder of the business by means of racks, wall or other means that would screen visibility into the area. No "sexually explicit" items or materials shall be placed outside the restricted area.
- B. No "sexually explicit" items or materials shall be displayed so as to be visible from the exterior of the business. No sexually explicit items or materials shall be displayed on the ceiling.
- C. Magazines that display or depict "sexually explicit activities" or "specified anatomical areas" may be stored on a merchandise rack immediately adjacent to the restricted area but must contain opaque blinders that allow viewing of the magazine title only. If magazines are the only "sexually explicit" stock in trade, the display rack may be situated where sales staff can monitor and observe activity around the display rack. All magazines displaying or depicting "sexually explicit activities" that are stored outside the restricted area must be placed at a height of four feet or higher.

**Sec. 8.20. Alternative energy systems-site specific scale.**

Alternate energy systems-site specific scale shall be permitted as freestanding accessory structures or as attachments to permitted principle if or accessory structure with a land use permit, subject to the following:

- A. *Setbacks.* All alternative energy systems must comply with required yard setbacks. In addition, the setback for windmills, turbines or similar structures shall be equal to twice the height of the structure.
- B. *Height exception.* All alternative energy systems shall comply with the maximum height otherwise allowed in the zoning district, except that personal scale windmills, turbines or similar structures may be permitted up to a maximum height of fifty (50) feet as measured from the ground to the highest point, including moving elements. There shall be a minimum of 15 feet clearance from the ground to the nearest moving element.
- C. *Lot coverage.* The area of the parcel covered by alternate energy systems shall not be included in the calculations for maximum lot area.
- D. *Environmental performance standards.* All alternative energy systems shall be installed and operated in conformance with Section 8.17, Environmental Performance Standards. In addition, photovoltaic panels shall be constructed of non-reflective materials or shall be oriented so as to not result in glare to adjacent properties.

**ARTICLE 9. DISTRICT SPECIFIC REGULATIONS**

**Sec. 9.01. Intent.**

The intent of this article is to specify residential and non residential development standards applicable to specific Zoning Districts. These districts require additional standards above those already specified in this

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Ordinance in order to ensure the general health, safety and welfare of Highland Township and also to ensure compatibility between adjacent land uses. These regulations are in addition to any regulations which are described in other articles in this Ordinance.

**Sec. 9.02. LV—Lake and Village Residential District.**

A. *Creation of new lots in the Lake and Village Residential District.*

1. No new Lake and Village Residential Districts shall be created. New parcels within the district may be created through land division and combination, subject to the following:
  - a. Where public sewer and public water service is available the minimum buildable area shall be fourteen thousand (14,000) square feet, provided the lot fronts a street, and twenty thousand (20,000) square feet where the lot fronts a major thoroughfare, and minimum frontage shall be eighty (80) feet:
  - b. Where public sewer and/or public water is not available the minimum buildable area shall be twenty thousand (20,000) square feet, provided the lot fronts a street and twenty-five thousand (25,000) square feet where the lot fronts a major thoroughfare and minimum frontage shall be one hundred and twenty (120) feet:
2. The lot must satisfy all criteria specified in the Land Division Ordinance.
3. No lot shall be divided in such a way as to create a non-conforming lot or to increase the degree of nonconformity already in existence.

B. *Setbacks.*

a. *Front yard setback.*

- a. A front yard setback shall be determined to promote consistency with established patterns within a developed neighborhood. The required setback will range from 30 feet to 40 feet based on analysis of existing houses within 200 feet of the subject parcel, located on the same side of the road as the subject parcel. If there are no homes within 200 feet of the subject parcel, the required front yard setback shall be 40 feet.
- b. In determining the setback, the following method shall be used, utilizing aerial photography and parcel models provided in the Oakland County Geographic Information System:
  - 1) Determine which existing houses shall be considered in the calculations.
  - 2) Determine the distance from each house to the front property line and record the distance.
  - 3) Subtract 30 feet from each measurement and record the difference. For measurements 30 feet or less, enter zero feet for further calculations. For measurements greater than 40 feet, enter ten feet for further calculations.
  - 4) Determine the average difference of all measurements as recorded in step 3) (e.g. add all recorded differences and divide by the number of samples). Add this calculated average to 30 feet. This is the required setback.
- c. The Zoning Administrator may refer any plot plan to the Zoning Board of Appeals for determination of the required setback.

b. *Side yard setback.*

- a. For all principal and accessory buildings and structures, the side yard setbacks are established based on lot width, as follows:

Lot Width (feet)	Least Side (feet)	Total Both Sides (feet)
120 or greater	10	30
90 to 119	10	25
70 to 89	5	20
40 to 69	5	15

c. *Rear yard setback.*

- a. A rear yard setback shall be determined to promote consistency with established patterns within a developed neighborhood. The required setback will range from 30 feet to 40 feet based on analysis of existing houses within 200 feet of the subject parcel, located on the same side of the road as the subject parcel. If there are no homes within 200 feet of the subject parcel, the required rear yard setback shall be 40 feet.
- b. In determining the setback, the following method shall be used, utilizing aerial photography and parcel models provided in the Oakland County Geographic Information System:
  - 1) Determine which existing houses shall be considered in the calculations.
  - 2) Determine the distance from each house to the rear property line and record the distance.
  - 3) Subtract 30 feet from each measurement and record the difference. For measurements 30 feet or less, enter zero feet for further calculations. For measurements greater than 40 feet, enter ten feet for further calculations.
  - 4) Determine the average difference of all measurements as recorded in step 3) (e.g. add all recorded differences and divide by the number of samples). Add this calculated average to 30 feet. This is the required setback.
- c. The Zoning Administrator may refer any plot plan to the Zoning Board of Appeals for determination of the required setback.

C. *Setback exceptions and height restrictions for accessory structures.*

- a. One (1) storage shed not greater than one hundred and fifty (150) square feet in area and not greater than ten (10) feet in height may be permitted as close as five (5) feet to side lot line or rear lot line. All sheds must comply with required front yard setback.
- b. One (1) accessory structure such as a garage, swimming pool, or play structure not greater than two hundred and forty (240) square feet in area and not greater than fifteen (15) feet in height may be permitted as close as ten (10) feet to the rear lot line provided the structure complies with the required side yard setback.

D. *Minimum Setback from the Ordinary High Water Mark.*

- a. The setback from the ordinary high water mark shall be determined to promote consistency with established patterns within a developed neighborhood, while protecting viewsheds of the lake for neighboring properties.
- b. Typically, the setback from the ordinary high water mark is sixty-five (65) feet. The setback may be reduced to as little as thirty (30) feet on lakefront lots, based on an analysis of like structures on parcels within two hundred (200) feet of the subject parcel, located along the lakeshore. This setback reduction may be applied to principle primary structures or to uncovered porches and decks. This setback reduction may not be applied to accessory structures such as garages and boathouses.

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- c. In determining the setback reduction, the following method shall be used, utilizing aerial photography and parcel models provided in the Oakland County Geographic Information System:
    - 1) Determine which existing primary structures or decks/uncovered porches shall be considered in the calculations. Decks and uncovered porches shall not be used in determining setback reductions for a principle structure, but principle structures may be used in determining setback reductions for decks/uncovered porches.
    - 2) Determine the distance from each structure to the presumed ordinary high water mark and record the distance.
    - 3) For parcels with no structures are closer to the presumed high water mark than sixty-five (65) feet, enter a value of zero for further calculations. For parcels with structures closer to the presumed high water mark than thirty (30) feet, enter a value of thirty-five (35) feet for further calculations. For remaining parcels with structures falling between those two (2) limiting factors, enter the difference between sixty-five (65) feet and the measured distance.
    - 4) Determine the average difference of all measurements as recorded in Step 3 (e.g. add all recorded differences and divide by the number of samples). This result represents the allowable setback reduction.
  - E. *Minimum floor area per residential unit.* One thousand (1,000) square feet.
  - F. *Minimum first floor area per residential unit.* Seven hundred and fifty (750) square feet.
  - G. *Maximum height for principal structures.* Two stories or twenty eight (28) feet.
  - H. *Maximum height for residential accessory structures.* Twenty eight (28) feet for all accessory structures which comply with the setback requirements under Section 9.02B, Setbacks. See Section 9.02C, Setback Exceptions and Height Restrictions for Accessory Structures for height restrictions for accessory structures placed under the provisions for setback exceptions.
  - I. *Maximum Lot Coverage.* The maximum lot coverage for all building (principal and accessory) is as follows:
    - a. For lots with net area less than fourteen thousand (14,000) square feet, the maximum lot coverage shall be forty-five (45) percent.
    - b. For lots with net area of fourteen thousand (14,000) square feet or greater, the maximum lot coverage shall be thirty-five (35) percent.

( Ord. No. Z-006, § 3, 10-14-2015 )

### **Sec. 9.03. Multiple family residential regulations.**

- A. *In general.* The regulations of this district are intended to:
  - 1. Provide a safe and convenient living environment that encourages an active lifestyle.
  - 2. Prevent overcrowding by establishing minimum standards for unit size, spacing between buildings, private and public open space and other bulk and area considerations.
  - 3. Require high standards in housing developments so that attractive neighborhoods, quality housing design and construction and open space with appropriate amenities result.
  - 4. Allow for a mixture of residential units to address the housing needs and preferences of individuals across a wide range of demographic factors, such as income, age, health and household size.
  - 5. Protect natural features such as open areas, lakes, woodlands, wetlands, steep slopes and natural habitat that contribute to the overall quality of life.

6. Provide a safe and convenient living environment that encourages an active lifestyle.
  7. Prevent overcrowding by establishing minimum standards for unit size, spacing between buildings, private and public open space and other bulk and area considerations.
  8. Require high standards in housing developments so that attractive neighborhoods, quality housing design and construction and open space with appropriate amenities result.
  9. Allow for a mixture of residential units to address the housing needs and preferences of individuals across a wide range of demographic factors, such as income, age, health and household size.
  10. Protect natural features such as open areas, lakes, woodlands, wetlands, steep slopes and natural habitat that contribute to the overall quality of life.
- B. *Maximum allowable density.* In the RM Multiple-family District, the maximum allowable density varies by housing type, but may not exceed eight (8) dwelling units per buildable acre of site area.
- C. *Minimum useable floor area.*

1. Useable Floor Area by Unit Type.

Unit Type	Useable Floor Area
Efficiency <sup>1</sup>	350 sq. ft.
1 bedroom units	600 sq. ft.
2 bedroom units	800 sq. ft.
3 bedroom units	1,000 sq. ft.
4 bedroom units	1,200 sq. ft.

2. Efficiency units are permitted only in housing developments where a common dining area option is provided.
3. No residential unit shall have more than one-third ( $\frac{1}{3}$ ) of its total area in a basement level.

D. *Multiple-family schedule of regulations.*

1. The following design standards apply:

Housing Type	Max. Density (units/acre)	Maximum Lot Coverage	Yard Setbacks (feet)				
			Front	Side		Rear	High Water Mark
				One	Both		
Single-Family Detached	4	35%	30	10	15	30	65
Duplexes	6	45%	40	10	20	30	65
Townhouses	8	60%	40	30	30	30	65
Multiple-family	8	60%	50	30	30	30	65
Accessory Structure	n/a	10%	50	10	10	10	65

2. In addition, the following setbacks and dimensional regulations apply regardless of housing type:
  - a. Parking setback to adjacent properties: Parking is not allowed in any required front yard. Parking is permitted in side and rear yards provided a minimum twenty (20) foot setback is observed.

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- b. Parking setback to front faces of residential buildings: There shall be a minimum separation of twenty (20) feet between any common parking areas and the front faces of residential buildings. This regulation does not apply to spaces assigned to garages and driveways.
  - c. Where building length exceeds eighty (80) feet, the architectural design shall include both projecting and recessing elements across the façade. The difference between recessed and projecting elements shall be at least four (4) feet.
  - d. Where the site development consists of clusters of townhouses, no more than twenty percent (20%) of the total number of groupings shall contain more than six (6) units with shared walls. In no case shall any grouping contain more than eight (8) units. Within any grouping, there shall be multiple front setbacks, so that no more than fifty percent (50%) of the units share the same setback. The minimum variation between setbacks is four (4) feet.
  - e. Maximum height of structures.
    - i. Principal residential structures: Twenty-five (25) feet/two (2) stories.
    - ii. Accessory structures: Fifteen (15) feet/two (2) stories plus one (1) foot for each additional two (2) feet in setback beyond the minimum setback requirement not to exceed twenty-eight (28) feet in height.
  - f. In those cases where the site design includes grouping of like multiple-family or townhouse buildings, the buildings shall be designed and oriented to provide light, ventilation, privacy, public safety, fire safety and to achieve aesthetic harmony.

#### **Sec. 9.04. Manufactured home park regulations.**

- A. The Manufactured Housing Code, as established by the State of Michigan under the authority of 1987 PA 96, as amended, regulates development of manufactured housing parks. All manufactured housing parks must be constructed according to the standards of the Code.
- B. In addition to the rules and standards of the State of Michigan, the Township imposes the following conditions:
  - 1. Manufactured housing parks shall be constructed, licensed, operated and managed in accordance with the provisions of the Mobile Home Commission Act, Act 96, P.A. 1987, and subsequently adopted rules and regulations governing mobile home parks.
  - 2. Manufactured housing parks shall not be permitted on parcels less than fifteen (15) acres in size.
  - 3. Individual manufactured housing sites within a manufactured housing park shall have a minimum lot size of 5,500 square feet per mobile home being served. This 5,500 square foot minimum may be reduced by twenty percent (20%), provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through this reduction of the site below 5,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under the Michigan Administrative Code governing manufactured housing parks.
  - 4. The on-site storage of boat trailers, boats, camping units, horse trailers and similar recreational equipment shall be prohibited on manufactured housing sites and in designated open space areas. The manufactured housing park may provide, within the confines of the park, a common outdoor storage area for the storage of the above mentioned equipment.
  - 5. The minimum setback for manufactured housing parks shall be fifty (50) feet from a public right-of-way. Manufactured housing parks shall be landscaped as follows:

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- a. If the manufactured housing park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.
  - b. If the park abuts a non-residential development, the park need not provide screening.
  - c. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

The landscaping shall consist of evergreen trees or shrubs of minimum three (3) feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured housing park as effectively as the required landscaping described above.

6. Manufactured housing parks shall be subject to preliminary plan review requirements in accordance with 1987 PA 96, as amended.
7. A permit shall not be required for the construction or erection of canopies or awnings which are open on three (3) sides. A building permit shall be required, however, before the construction or erection of any screened, glassed-in, or otherwise enclosed awning or canopy.

### **Sec. 9.05. Highland Station District.**

- A. *In general.* Development patterns shall be guided by the Historic Highland Station Master Plan adopted by the Planning Commission on March 6, 2008, the Historic Highland Station Design Guidelines adopted by the Planning Commission on October 16, 2008, and other guidance documents that might be adopted by resolution of the Planning Commission. The Planning Commission and/or Planning staff will seek the recommendation of the Highland Downtown Development Authority when reviewing site plans and/or permit applications. The Objectives include the Design Goals listed in the Historic HS Design Guidelines, Page 1 of the Introduction, and the following:
  1. Provide for a mix of housing types, costs and ownership opportunities.
  2. Provide for site design flexibility to encourage shared site improvements and cross access through a series of marginal access driveways and pathways.
  3. Promote site design characteristics that encourage greater pedestrian traffic, and reinforce pedestrian safety, comfort and convenience.
  4. Provide pathways for pedestrians, cyclists and equestrians that include linkages to neighborhoods and developments outside the core area of Highland Station.
- B. *Dimensional requirements.*
  1. The minimum lot size regulations listed below are for newly created residential or nonresidential lots in the Highland Station District. Existing dimensionally non-conforming lots shall follow the regulations in Section 16.02, Non-conforming Lots.
    - a. Where public sewer and public water service is available the minimum lot size shall be six thousand six hundred (6,600) square feet and the minimum frontage shall be sixty-six (66) feet.
    - b. Where public sewer and/or public water is not available the minimum lot size shall be fourteen thousand (14,000) square feet, provided the lot does not front on a major thoroughfare and the minimum frontage shall be eighty (80) feet.
    - c. The maximum floor area of commercial buildings in the Highland Station District shall be determined by the Planning Commission after consideration of the following factors:
      - i. Compatibility of the proposed development with the surrounding properties.

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- ii. Compliance with the vision contained in the Highland Station Master Plan Initiative, the Historic Highland Station Design Guidelines, and other guidance documents that might be adopted by resolution of the Planning Commission.
  - 2. The minimum floor area is as follows:
    - a. For a single family dwelling unit the minimum is 750 square feet.
    - b. For an accessory dwelling unit the minimum is 350 square feet.
  - 3. The maximum height for principal structures. Two (2) stories or twenty eight feet.
  - 4. The maximum height for accessory structures. Fifteen (15) feet.
  - 5. The maximum lot coverage. Twenty (20) percent.
  - 6. The front, side and rear setbacks for principal and accessory buildings and structures. Shall be sixty-five (65) feet from the ordinary high water mark and all other setbacks shall be approved by the Planning Commission non-residential and multiple family residential uses. For single family residential uses, LV-Lakes and Village setback regulations in Section 9.02B shall apply. In making the determinations on setbacks, the Planning Commission shall consider the following factors:
    - a. The character of the development in achieving the objectives of this Section.
    - b. The dimension of the front, side and rear setbacks being similar to the setbacks of similarly sized parcels within two hundred (200) feet of the subject parcel.
    - c. Accessibility to the front, side or rear yards by pedestrians, visitors' vehicles, and emergency vehicles shall be accommodated on either the subject parcel itself or in conjunction with one or more adjacent parcels.
    - d. Required front, side and rear yards shall be unobstructed from the ground level to the sky, except by natural vegetation and by specifically permitted accessory uses and facilities as follows:
      - i. Signs as set forth in Section 9.05.H, Signs Permitted in the Highland Station District.
      - ii. Fences as set forth in Section 9.05.F, Fence Standards.
      - iii. Exterior lighting as set forth in Section 9.05.G, Lighting Standards.
      - iv. Accessory structures and uses as set forth in Section 8.03, Accessory Structures and Uses.
      - v. Site furnishings, including but not limited to, litter containers, benches, bike racks and other street furniture for public use as recommended by the Highland Township Downtown Development Authority (HDDA).
      - vi. Artwork, objects and artifacts that contribute to the historic or aesthetic character of Highland Station if reviewed and approved by the Planning Commission, provided said articles are not displays of merchandise offered for sale.
      - vii. Driveways.
- C. *Architectural guidelines.*
- 1. All new buildings, additions and exterior renovations shall be consistent with the architectural style of the Highland Station concepts as contained in the Highland Station Master Plan Initiative, the Historic Highland Station Design Guidelines, and other guidance documents that might be adopted by resolution of the Planning Commission. In making this determination, the Planning Commission shall consider the following factors:



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- a. The material for any exterior finish shall be, constructed of wood or synthetic materials fabricated to have the appearance and durability of clapboard wood siding. Other acceptable finish materials include brick, cut stone, field stone, cast stone, or wood shakes with an opaque stain. The use of vinyl siding is prohibited.
  - b. The overall design of the building is consistent with the design intent of Section 9.05, Highland Station District.
  - c. The roof design shall be consistent with the architectural style of the building. Buildings shall be designed with pitched roofs or a decorative cornice. Rooftop mechanical equipment shall be screened from all views with screening features that are consistent with the architectural style of the main building.
  - d. Meter boxes, transformers, waste receptacles, mechanical equipment and accessory structures on or adjacent to buildings shall be enclosed with walls or landscape features that are similar to the architectural features of the principal building.
  - e. Elevations may include awnings made of opaque materials. Translucent or internally lit awnings shall not be permitted.
  - f. Sites shall be designed for pedestrians at a scale relative to street access, sidewalks, or an internal circulation network. Convenient and safe pedestrian access shall be provided between the public sidewalk and all building entrances.
  - g. Rear and side entrances should be provided where parking is in the rear or on the side of the building.
  - h. Exception: Highland Station Architectural guidelines are voluntary for single family residential uses in the Highland Station District.
- D. *Site circulation, parking and loading areas.* Site circulation, parking and loading areas shall be designed in accordance with the provisions of Article 11, Access Management, Parking and Circulation, except as may be modified by the Planning Commission according to the following provisions:
- 1. Internal and external walkways are required in accordance to Section 11.07, Pedestrian Access.
  - 2. The number of parking spaces for nonresidential land uses may be based on a technical study of the development proposed which shall recommend the number of required improved and unimproved parking spaces that shall conform to the standards published in Shared Parking by the Urban Land Institute or a similar methodology acceptable to the Planning Commission. The study may take into account the proposed use(s), hours of operation and other similar circumstances that will impact parking requirements.
  - 3. Two (2) or more parcels may share parking provided the owners enter into a joint parking easement agreement and design the layout of all parking, circulation, and pedestrian areas to be readily accessible to all uses under the easement agreement.
  - 4. Off-street/unsheltered parking shall not be permitted in any required front yard.
  - 5. Off-street/unsheltered parking shall be permitted in side, and rear yards, but not closer than five (5) feet to any property line or not within required landscape buffer strips, whichever is greater. This does not apply if there is an approved joint parking easement agreement.
  - 6. Parking structures and shelters shall be permitted, subject to Planning Commission approval for their placement and architectural style.
- E. *Landscaping guidelines.* Any proposal in the Highland Station District to build, renovate or remodel the building or site features such as parking, loading or driveways shall submit a landscape plan in accordance

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with Article 12, Landscaping. The Planning Commission, in making a determination, shall consider the following factors:

1. The landscape improvements shall also include additional plantings (deciduous trees, flowering trees, evergreens, shrubs and flowers) to be consistent with the Historic Highland Station Design Guidelines.
2. Landscaping shall be designed at a pedestrian scale relative to the street, sidewalks, internal pedestrian circulation system and the circulation system established on adjacent parcels.
3. Landscape designs may also include streetscape furnishings and lighting standards as adopted by the Planning Commission in the Historic Highland Station Design Guidelines.
4. Exception: Highland Station Landscape guidelines do not apply to single family residential uses in the Highland Station District.

F. *Fence standards.*

1. Fences in front yards shall be decorative and comply with the pedestrian scale and historic character of the Highland Station District, subject to administrative review.
2. The Planning Commission may require modification or removal of existing fences on property being converted in whole or in part to a nonresidential use based on the characteristics of the property, adjacent property and the goals of the Historic Highland Station Design Guidelines.

G. *Lighting standards.* Outdoor lighting shall comply with the provisions of Article 13, Lighting, the goals of Historic Highland Station Design Guidelines, as well as the following standards:

1. Wall mounted light fixtures shall be coach-light type fixtures located at each entrance to the building. High-intensity, wall-pak style fixtures are not permitted.
2. Recessed soffit or porch ceiling light fixtures may be permitted subject to a lighting and illumination level study that shall be approved by the Planning Commission.
3. Pole-mounted lighting intended for illumination of pedestrian pathways and on street parking shall be not more than twelve (12) feet high and shall provide ambient, indirect, shielded lighting and illumination levels meeting the standards set forth in Article 13, Lighting.
4. Pole-mounted lighting intended for illumination of parking areas shall be not more than eighteen (18) feet high and shall provide ambient, indirect, shielded lighting and illumination levels meeting the standards set forth in Article 13, Lighting.
5. An applicant shall prepare and submit a night lighting schedule describing the hours of operation for both business hours and non-business hours, intensity of the illumination, and lighting levels at the property line for Planning Commission review and approval.

H. *Signs.*

1. *Intent.* The intent of this Section is to regulate signage in the Highland Station Zoning District as noted in Article 14, Signs. Unless otherwise noted, regulations in this Section supersede regulations found elsewhere. Where this section does not speak to a type of signage, regulations in Article 14, Signs, apply. The Township recognizes that this district originally served as the central business district and contains many buildings that are significant to the history of Highland. Plans and ordinances aimed at revitalizing this district require sign restrictions that:
  - a. Preserve the architectural and historical character of buildings and streetscape, so that they are not overwhelmed or obscured by signage;
  - b. Create a walkable downtown area through the use of pedestrian-scaled signage;

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- c. Promote the use of creative and appropriate signage which will enhance the economic viability of the Highland Station district; and
  - d. Ensure the health, safety and welfare of the residents of the Township by prohibiting signage that creates a traffic hazard or otherwise adversely impacts public safety.
2. *Design, size and location general requirements.*
    - a. All signs should be integrated with the design of the building. A well-designed building façade or storefront is created by the careful coordination of sign and architectural design, building materials and over-all color scheme. All signs shall complement their surroundings without competing with each other and shall convey their message clearly and legibly.
    - b. The scale of signs should be appropriate for the building on which they are placed and the area in which they are located. The size and shape of a sign should be proportionate with the scale and proportion of the structure.
    - c. The layout and shape of the architectural features of the building should be considered when determining the size and location of a sign.
  3. *Maximum area and maximum number.*
    - a. The total sign area for a building may not exceed one (1) square foot for each linear foot of the primary face(s) of the building except as allowed in subsections i. and ii. below. Primary face(s) of [a] building is illustrated in Figure 2.17.
      - i. For businesses fronting Highland Road, (M-59), the maximum allowable signage may not exceed two (2) square feet for each lineal foot of building frontage parallel to Highland Road.
      - ii. If there is an additional primary face of the building parallel to a different public road right-of-way, additional signage may be approved not to exceed one (1) square foot for each linear foot of building frontage parallel to the other public roads. In this case, signage may not be divided between the primary faces.
    - b. The total signage allotment may be divided among multiple signs, provided that such signs are within the requirements of this ordinance and do not detract from the character of the building or surrounding buildings.
    - c. For buildings situated on corner lots, the Zoning Administrator may permit the allowable signage to be divided between each frontages. The maximum allowable signage is calculated based solely on the primary face.
  4. *Sign materials.* Exterior materials, finishes, and colors should be compatible with those of the building or structures on site. Signs should be professionally designed and constructed using high-quality materials.
  5. *Illumination.* Only exterior illumination of signs is permitted, except for buildings fronting Highland Road (M-59) may have non-translucent channel letters which may include reflective lighting. Such illumination may not shine directly into neighboring properties or at pedestrians or motorists. Lights that flash, pulse, rotate, move, or simulate motion are not permitted. Light fixtures that point upward must be shielded to limit excess transmission of light. Creative and custom-designed neon lit signs may be permitted subject to review by the Planning Commission.
  6. *Sign review.* New single and multi-tenant buildings must submit an overall sign plan for review and approval by the Planning Commission at the time of site plan review. New building design should provide logical sign areas, allowing flexibility for new users over time. Designs of building facades and wall exteriors which provide for convenient and attractive replacement of signs are encouraged.

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7. *Permitted signs.*

- a. *Awning/canopy signs.* Are only permitted when attached to a functional awning or canopy covering a window or door opening. Awning/Canopy Signs are illustrated in Figure 9.1.
  - i. *Size.* Signs may not exceed more than thirty-three percent (33%) of the valance area, and the valance area shall not be more than nine (9) inches in height. An eight (8) foot clear area must be maintained between the bottom of the valance and the finished grade.
  - ii. *Location.* Awning/canopy signs may be located on the valance only.
  - iii. *Materials.* The awning used for such signs shall be constructed of durable woven material (not vinyl) or other materials in keeping with the architecture of the building. Awnings must be maintained in such a manner so as to continue its original appearance and provide proper safety to the persons and property it may affect. Awnings/canopies shall be compatible with the architectural integrity of the building to which it is attached.
  - iv. *Specific information.* Traditional shed awnings are appropriate for most window, door, and storefront installations. Quarter-round awnings, modern mansard awnings, and "bubble" awnings are not permitted.
- b. *Hanging sign.* Any sign that is hung from beneath an awning/canopy or other building projection. Hanging sign is illustrated in Figure 9.2.
  - i. *Size.* Hanging signs, excluding supporting rods, chains, or similar hangers, shall fit within an imaginary rectangle with a maximum area of four (4) square feet total.
  - ii. *Location.* The sign shall be placed or hung only below a first-floor awning provided that at least eight (8) feet of vertical clearance is maintained between the sidewalk or porch and the sign. Such signs may not extend past the outside edge of the awning.
  - iii. *Specific information.* The support post and arm brackets of any such sign shall complement the sign and the building and shall not bear any language or graphic or pictorial representation, nor shall anything be affixed to, mounted upon, suspended from or otherwise attached to the sign faces or support posts, except the permitted signage.
- c. *Post and arm sign.* A sign affixed to an arm of a freestanding post or similar upright. Posts and/or uprights shall not exceed six (6) feet in height. Post & arm sign is illustrated in Figure 9.3.
  - i. *Size.* Sign faces shall not exceed four (4) square feet per side, with a maximum of two (2) sides. The top of the sign faces may not exceed 6 feet in height.
  - ii. *Location.* Such signs must be located within a front building setback, and may not hang over the public sidewalk.
  - iii. *Specific information.* The support post and arm brackets of any such sign shall complement the sign and the building and shall not bear any language or graphic or pictorial representation, nor shall anything be affixed to, mounted upon, suspended from or otherwise attached to the sign faces or support posts, except the signage as approved by the Planning Commission.
- d. *Projecting signs.* A sign affixed to an arm attached to a building. Projecting sign is illustrated in Figure 9.4.
  - i. *Size.* Projecting signs shall not exceed six (6) square feet per face. A sign shall not project greater than four (4) feet from the building face or beyond one-third ( $\frac{1}{3}$ ) of the width of any sidewalk over which the sign projects. For buildings with multiple projecting signs, there shall be at least a twenty (20) foot separation between signs.

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- ii. *Location.* Projecting signs shall be permitted only at the first floor sign band, which is defined as the space between the first and second floor. Typically, the first floor sign band will fall within a range of between eight (8) and fourteen (14) feet from finished grade. The lowest point of a projecting sign shall be eight (8) feet above the finished grade.
  - iii. *Multi-tenant buildings.* Tenants on the second floor may be identified on a projecting sign
  - e. *Sandwich board/portable signs.* Any sign, which by its construction is intended to be moved from one location to another. Sandwich Board/Portable Sign is illustrated in Figures 2.15 and 9.5.
    - i. *Number and size.* One such sign shall be permitted per business. Such signs shall not exceed ten (10) square feet per side with a maximum of two sides. The maximum height for such signs is four (4) feet.
    - ii. *Location.* Sandwich board/portable signs may be located in the front building setback or on sidewalks within the public right-of-way as long as a width of at least four (4) contiguous feet of sidewalk is maintained for clearance between the sign and any permanent fixture, such as the building, light pole or curb. Such signs shall not be placed within twenty (20) feet of another sandwich board/portable sign.
    - iii. *Specific information.*
      - (a) Signs shall be compatible with the principal building signage. Plastic signs with changeable copy letters are not permitted. The primary colors of such signs shall be compatible with the colors of the building where the sign is located.
      - (b) The sign shall be constructed and sufficiently weighted for stability so as to ensure the safety of pedestrians.
      - (c) All portable signs permitted under this Section shall be maintained in good condition and shall be removed each day prior to the close of business.
      - (d) Temporary portable signs for new businesses. The Highland Downtown Development Authority may make temporary signs available to new businesses for display in the Highland Station District. Such signs shall be A-frame signs which state, "The Highland Downtown Development Authority Welcomes [Business Name]." Such signs may be displayed for a period of thirty (30) days within six (6) months of the opening of a new business.
  - f. *Wall mounted signs.* A sign that is attached directly to a building wall, where the sign face is parallel to the building wall. Wall sign is illustrated in Figure 2.15.
  - g. *Number and size.* Multiple wall mounted signs may be permitted provided the total sign area does not exceed the maximum area under Section 905.H.3, Maximum Area and Maximum Number. If the Planning Commission permits signage to be placed on a secondary frontage, such sign shall be no larger than the largest wall mounted sign on the principal frontage.
    - i. *Location.*
      - (a) Signs must be located between the highest first floor windows and the cornice, or if there is more than one story, the highest first floor windows and the second floor windows. Where the Planning Commission has determined that the architecture does not provide a horizontal sign band, a vertically oriented sign may be allowed, provided that it otherwise complies with the provisions of this Section.

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- (b) No wall mounted sign shall cover wholly or partially any wall opening or architectural feature, project beyond the ends or top of the wall to which it is attached or project above the roof surface.
      - (c) Wall mounted signs shall not be attached to the outer wall at a height of less than eight (8) feet above a public sidewalk or at a height of less than fifteen (15) feet above public driveways, alleys and thoroughfares.
    - ii. *Multi-tenant buildings.*
      - (a) A building identification wall mounted sign may be permitted on multi-tenant retail buildings. The maximum size of a building identification sign is one-quarter (0.25) square feet per lineal foot of principal building frontage. This sign is permitted in addition to the allowable signage calculated under Section 9.05.H.3, Maximum Area and Maximum Number.
      - (b) Tenants on the second floor may be identified on a wall mounted sign located on the first floor sign band, a projecting sign on the first floor sign band, or as a wall mounted sign on the first floor sign band.
      - (c) A directory sign is a permitted wall mounted sign that is comprised of individual nameplates no larger than one (1) square foot each. These signs are permitted in addition to the allowable signage calculated under Section 9.05.H.3, Maximum Area and Maximum Number.
      - (d) Directory signs may be located below the first floor sign band.
  - h. *Freestanding signs.* Freestanding signs may be permitted if a building has a front yard setback of at least thirty (30) feet from the existing road right-of-way or Historic Highland Station Master Plan right-of-way, whichever is greater.
    - i. *Number and size.* One (1) freestanding sign is permitted for each development. Freestanding signs may not exceed a height of four (4) feet with fifteen (15) square feet per face and a maximum of two (2) faces.
    - ii. *Location.* Freestanding signs must be set back at least ten (10) feet from the existing road right-of-way or Historic Highland Station Master Plan right-of-way whichever is greater. No signs may be placed within the corner clear vision triangular area as regulated in Section 11.05, Clear Vision Area Requirements. No sign shall be erected adjacent to any public right-of-way so as to create a traffic hazard.
    - iii. *Materials.* Natural materials including stone, brick, wood or similar-looking materials are acceptable. A freestanding sign shall be compatible in style, material and color with the building it serves.
  - i. *Window signs.*
    - i. *Number and size.* Multiple window signs are permitted provided they do not exceed a total of twelve (12) square feet in area per building face. This signage is permitted in addition to the allowable signage calculated under Section 9.05.H.3, Maximum Area and Maximum Number. Product or decorative displays shall not be counted as window signs.
    - ii. *Location.* Window signs are displayed from inside the building, affixed to business windows and/or doors, or within three (3) feet of the windows and/or doors, including affixed letters six (6) or more inches in height. Window signs are permitted in floors above the ground floor only if the business has no ground floor occupancy.

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- iii. *Materials.* Vinyl letters, paint or metallic leaf that can be applied directly to the glass on the interior, and etching of the glass itself is permitted. Temporary paper signs are permitted and should be neatly presented. Neon-colored paper is not allowed.
  - j. Other permitted signs in the HS District include the signs described in Section 14.06, Signs Allowed by Right, and those noted below:
    - i. *Rear entry signs.* Businesses that have an entrance in the rear of a building that is not seen from the public right-of-way are permitted a rear entry sign no larger than four (4) square feet total. This signage is permitted in addition to the allowable signage calculated under Section 9.05.H.3, Maximum Area and Maximum Number.
    - ii. *Open/closed signs.* One (1) such sign is permitted within three (3) feet of the window of a business and will not count towards window signage totals, provided that such sign does not exceed two (2) square feet.
    - ii. *Address/incidental signage.* Any combination of directional or informational signage less than one (1) square foot each or letters less than six (6) inches high will not be counted towards sign totals.
    - iii. *Historic plaques.* Any sign awarded by local or state historic preservation organizations does not count toward maximum signage permitted.

**Figure 9.1**

Awning/Canopy Sign



**Figure 9.2**

Hanging Sign



**Figure 9.3**

Post & Arm Sign



**Figure 9.4**

Projecting Sign



**Figure 9.5**



Sandwich Board/Portable Sign

- I. *Outdoor sales of "ready to eat" food or farm products.* The Zoning Administrator is authorized to review and approve land use permits for sales of ready to eat food or agricultural products on any parcel, including vacant parcels, in the Highland Station District subject to the following:
1. Outdoor sales may be conducted from a cart, trailer, tables under a canopy or other portable shelter. Such facilities must be kept clean, orderly and well maintained.
  2. Outdoor sales facilities shall be located a minimum of ten (10) feet from adjacent parcels used for residential purposes. On such parcels, the facilities shall be located to minimize negative impacts to the neighbors, of efforts made to screen the activity.
  3. Any application for outdoor sales activity proposed within the right-of-way must be accompanied by a valid permit from the Road Commission for Oakland County. Such activity shall not interfere with sight lines at intersections nor impede pedestrian or vehicle traffic flow.
  4. The applicant must demonstrate a suitable plan for parking. This plan could include on-street parking where permitted by the Road Commission for Oakland County or letters of agreement from property owners for use of spaces in existing parking lots.



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5. Each outdoor sales permittee must provide waste receptacles sized appropriately based on the products offered for sale and must provide for the proper disposal of refuse collected in the receptacles.
  6. Any outdoor sound system must be operated so that no sound is conveyed beyond the property line.
  7. Outdoor sales are limited to times between 10 a.m. and 9 p.m., seven (7) days per week.
  8. No alcoholic beverages may be sold.
  9. Land use permits for outdoor sales may be issued on a month to month basis provided that no violations or complaints were filed regarding the temporary use that were not resolved to the satisfaction of the Zoning Administrator. Multiple or ongoing violations of permit conditions may subject the applicant to review and approval by the Planning Commission for any future applications.

( Ord. No. Z-005, § 4, 3-11-2015 )

### **Sec. 9.06. Industrial districts.**

#### *A. Technology and Research District.*

1. *Requirements applicable to subdivision and condominium developments.* Property that is proposed for unified park and/or campus development with more than one (1) site being developed shall have an overall plan which contains the following:
  - a. A landscape plan in accordance with Article 12, Landscaping. In addition, a subdivision or site condominium development in the TR District shall meet the same landscaping requirements as set forth for residential subdivision or site condominiums in Section 12.09, Subdivision and Site Condominium Landscaping.
  - b. A street lighting plan providing for illumination of internal streets, in accordance with Article 13, Lighting.
  - c. A comprehensive sign plan illustrating identification, directional and traffic safety signs, in accordance to Article 14, Signs.
  - d. A development agreement in accordance with Section 3.12, Development Agreement.
2. *Requirements applicable to all uses.* All uses permitted by right or by special land use approval shall meet the following requirements:
  - a. *Conducted within enclosed buildings.* All business, servicing or processing, except for off-street parking, loading and approved open air uses shall be conducted within completely enclosed buildings.
  - b. *Storage and loading.*
    - i. There may be outside storage as an accessory use, but no sale of goods, materials or supplies, and limited to fifteen percent (15%) of the gross floor area of the principal building in which it serves, completely screened from view and shall follow the regulations under Section 8.03.B.2, Outdoor Display and Sales in Commercial Districts.
    - ii. Outdoor loading and unloading of trucks or vehicles at truck bays is allowed; however, loading and unloading shall not require the outdoor parking of trucks or trailers for periods of longer than twenty-four (24) hours. Outdoor parking of trucks or trailers for periods longer than twenty-four (24) hours shall be considered storage.

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- iii. Loading areas may be located in side or rear yards in accordance with Article 11, Access Management, Parking and Circulation. However, side yard loading areas shall be screened from view of any public or private road.
  - c. *Landscaping.* Where the TR District abuts a residentially zoned property, the landscape buffer required by Section 12.04, Screening Between Land Uses, shall be a minimum of fifty (50) foot wide. Where the TR District abuts a non-residential zoned or used property, the landscape buffer shall be a minimum of twenty (20) foot wide.
  - d. *Mechanical and roof-mounted equipment.* All mechanical and roof-mounted equipment shall be fully screened in a manner to be reviewed and approved during site plan review.
  - e. *Environmental.* For those properties on which hazardous waste and/or toxic substances and/or materials, and/or their byproducts may be present for any purpose, including, without limitation, processing, storage and/or use, all requirements of applicable local, state and/or federal law and this Ordinance shall be strictly complied with, along with any precautions reasonably determined to be necessary by the Planning Commission as part of site plan or special use review. All uses shall comply with the Environmental Performance Standards in Section 8.17.
- B. *Industrial Manufacturing District.*
- 1. *Requirements applicable to all uses.* All uses permitted by right or by special land use approval shall meet the following requirements:
    - a. *Uses within buildings.* All industrial uses shall be conducted entirely within a completely enclosed building, except for outdoor storage as permitted and approved under Section 9.06.B.1.b, Outdoor Storage, below.
    - b. *Outside storage.* Outdoor storage of trucks, trailers, equipment, supplies, materials, finished and semi-finished products, building materials, sand, gravel, stone, lumber, contractor's equipment and supplies and recreational equipment shall be subject to the following:
      - i. All outdoor storage uses shall be located within the rear or side yards.
      - ii. Outdoor storage areas shall be setback a minimum of two hundred (200) feet from all residential districts. Outdoor storage areas shall comply with all other building setbacks of the Industrial Manufacturing district.
      - iii. All storage areas shall be enclosed within a building, an obscuring wall, fence or screened with landscaping on those sides abutting all other Districts and a public street. The extent of the screening or enclosure shall be determined by the Planning Commission on the basis of the usage of the property. The Screening shall comply with Article 12, Landscaping.
      - iv. All outdoor storage areas shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose of stormwater without adversely impacting adjacent property. The Planning Commission may approve a gravel surface for all or part of the display area for low intensity activities, such as landscaping sales, upon a finding that the neighboring properties will not be negatively impacted by pollution. Spill control measures may be required such as containment curbs and covered shelters for materials deemed to pose an environmental risk, such as, but not limited to, fertilizers, softener salt, pesticides, and the like.
      - v. Outdoor loading and unloading of trucks or vehicles at truck bays is allowed; however, loading and unloading shall not require the outdoor parking of trucks or trailers for periods of longer than twenty-four (24) hours. Outdoor parking of trucks or trailers for periods longer than twenty-four (24) hours shall be considered storage.

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- vi. Loading areas may be located in side or rear yards in accordance with Article 11, Access Management, Parking and Circulation. However, side yard loading areas shall be screened from view of any public or private road right-of-ways.
  - c. *Landscaping.* Where the IM District abuts a residentially zoned property, the landscape buffer required by Section 12.04, Screening Between Land Uses, shall be a minimum of fifty (50) foot wide. Where an IM District abuts a non-residential zoned or used property, the landscape buffer shall be a minimum of twenty (20) foot wide.
  - d. *Mechanical and roof-mounted equipment.* All mechanical and roof-mounted equipment shall be fully screened in a manner to be reviewed and approved during site plan review.
  - e. *Environmental.* For those properties on which hazardous waste and/or toxic substances and/or materials, and/or their byproducts may be present for any purpose, including, without limitation, processing, storage and/or use, all requirements of applicable local, state and/or federal law and this Ordinance shall be strictly complied with, along with any precautions reasonably determined to be necessary by the Planning Commission as part of site plan review. All uses shall comply with the Environmental Performance Standards in Section 8.17.

## **ARTICLE 10. SUPPLEMENTAL USE REGULATIONS**

### **Sec. 10.01. Intent.**

The intent of this article is to specify development standards applicable to specific uses. Certain uses require additional standards above those already specified in this Ordinance in order to ensure the general health, safety and welfare of Highland Township, and also to ensure compatibility between adjacent land uses. These standards are in addition to any other standards which are described elsewhere in this Ordinance.

### **Sec. 10.02. Adult day care home.**

The following regulations shall apply:

- A. The proposed use shall not change the essential character of the surrounding residential area, and shall not create a nuisance.
- B. Fencing of portions of the site where it is necessary to ensure the safety and security of the clients shall be provided unless it is determined by the Planning Commission that the applicant has satisfied this condition through other means.
- C. The hours of operation do not exceed 16 hours within a 24 hour period. No overnight care is permissible.
- D. The use shall be limited to the first floor of the structure.
- E. The Planning Commission will determine the maximum number of clients based upon physical conditions of the site such as structure and parcel size. The applicant shall submit proof that the septic system and well meet County Health Department Standards.
- F. Adequate parking and site circulation must be provided to accommodate drop off and pick up and residential parking.

### **Sec. 10.03. Adult oriented businesses and other Regulated Uses.**

- A. *General requirements for Regulated Uses.*

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1. It is recognized that there are some uses, which because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this Section.

Prior to adopting these regulations, the Township reviewed studies prepared on these uses, reviewed ordinances and regulations prepared by other municipalities, and reviewed applicable federal and state case law, including the following: *Pap's AM v City of Erie*, 529 US 277 (2000); *Deja Vu of Nashville v Metropolitan Government of Nashville & Davidson County*, 466 G3d 391 (6th Cir 2006); *Sensations, Inc. v City of Grand Rapids*, 2006 WL 2504388 (WD MI 2006); *Van Buren Township v Garter Belt*, 258 Mich App 594; 673 NW2d 111 (2003); *Bronco's Entertainment v Charter Township of Van Buren*, 421 F3d 440 (6th Cir 2005), *Thomas v Chicago Park District*, 122 S Ct 775 (2002), *City of Renton v Playtime Theatres Inc*, 475 US 41 (1986), *Young v American Mini Theatres*, 426 US 50 (1976), *Barnes v Glen Theatre Inc*, 501 US 560 (1991); *California v LaRue*, 409 US 109 (1972); *DLS Inc v City of Chattanooga*, 107 F3d 403 (6th Cir 1997); *East Brooks Books Inc v City of Memphis*, 48 F3d 2200 (6th Cir 1995); *Broadway Books v Roberts*, 642 F Supp 4867 (ED Tenn 1986); *Bright Lights Inc v City of Newport*, 830 F Supp 378 (ED Ky 1993); *Richland Bookmart v Nichols*, 137 F3d 435 (6th Cir 1998); *Richland Bookmart v Nichols*, 278 F3d 570 (6th Cir 2002); *Déjà vu of Cincinnati v Union Township Board of Trustees*, 411 F3d 777 (6th Cir 2005); *Déjà vu of Nashville v Metropolitan Government of Nashville*, 274 F3d 377 (6th Cir 2001); *Bamon Corp v City of Dayton*, 7923 F2d 470 (6th Cir 1991); *Threesome Entertainment v Strittmather*, 4 F Supp 2d 710 (ND Ohio 1998); *JL Spoons Inc v City of Brunswick*, 49 F Supp 2d 1032 (ND Ohio 1999); *Triplett Grille Inc v City of Akron*, 40 F3d 129 (6th Cir 1994); *Nightclubs Inc v City of Paducah*, 202 F3d 884 (6th Cir 2000); *O'Connor v City and County of Denver*, 894 F2d 1210 (10th Cir 1990); *Deja Vu of Nashville Inc et al v Metropolitan Government of Nashville and Davidson County*, 2001 USA App LEXIS 26007 (6th Cir Dec 6, 2001); *ZJ Gifts D-2 LLC v City of Aurora*, 136 F3d 683 (10th Cir 1998); *Connection Distribution Co v Reno*, 154 F3d 281 (6th Cir 1998); *Sundance Associates v Reno*, 139 F3d 804 (10th Cir 1998); *American Library Association v Reno*, 33 F3d 78 (DC Cir 1994); *American Target Advertising Inc v Giani*, 199 F3d 1241 (10th Cir 2000); *ZJ Gifts D-2 LLC v City of Aurora*, 136 F3d 683 (10th Cir 1998); *ILQ Investments Inc v City of Rochester*, 25 F3d 1413 (8th Cir 1994); *Bigg Wolf Discount Video Movie Sales Inc v Montgomery County*, 2002 US Dist LEXIS 1896 (D Md Feb 6 2002); *Currence v Cincinnati*, 2002 US App LEXIS 1258 (3rd Cir Jan 24, 2002); and other cases; and on testimony to Congress in 136 Cong Rec S 8987; 135 Cong Rec S 14519; 135 Cong Rec S 5636; 134 Cong Rec E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota-1980; Houston, Texas - 1997; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio - and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square 1993; Bellevue, Washington, - 1998; Newport news, Virginia - 1996; new York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence, " by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House committee on Ethics and Constitutional Law, Jan 12, 2000, and the Report of the Attorney General's Working Group On the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota).

2. Based on the evidence of adult uses presented in hearings and in the aforementioned reports made available to the Township Board, the Township Board finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that the Charter Township of Highland is seeking to abate and prevent in the future. The primary control or regulation is for the purpose of

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preventing a concentration of these uses in any one area which would create such adverse effect(s). It is further the intent these regulations that these uses only be permitted as special land uses.

3. Uses (collectively "Regulated Uses") subject to these controls are as follows:
  - a. Sexually oriented business as defined in Article 2, Rules of Construction and Definitions.
  - b. Tattoo establishments.
  - c. Pawnshops.
- B. *Locational requirements for Regulated Uses.* The Planning Commission must find that there is not presently more than one (1) such Regulated Use within one thousand (1,000) feet of the boundaries of the site of the proposed Regulated Uses. The Planning Commission may not waive this location provision for sexually oriented businesses as defined by this Ordinance. The Planning Commission may waive this locational requirement for tattoo establishments, pawnshops, pool or billiard halls, if the following findings are made:
  1. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of the Section will be observed.
  2. That the proposed use will not enlarge or encourage the development of a "skid-row" area in which the homeless, unemployed, transients or others may loiter or congregate for no gainful purpose.
  3. That the establishment of any additional Regulated Use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any plans for future development of the area according to the Township's Master Plan.
  4. That all applicable regulations of this Ordinance will be observed.
- C. *Conditions of approval.* The Planning Commission may recommend that the Township Board impose such conditions or limitations upon the establishment, location, construction, maintenance or operation of the Regulated Uses, as shall, in its judgment, considering the standards set forth in Article 6, Special Land Use Procedures and Standards, be necessary for the protection of the public health, safety, welfare and interest, except that any conditions imposed on a sexually oriented business as defined in this Section shall be limited to those conditions necessary to assure compliance with the standards and requirements of Section 10.03.H, Requirements For Sexually Oriented Businesses. Any evidence and guarantee may be required as proof that the conditions stipulated in connection with the establishment, maintenance and operation of a sexually oriented business shall be fulfilled.
- D. *Time limits for review.* An application for special land use approval of a Regulated Use shall proceed before the Planning Commission for recommendation, and then the Township Board for final decision. Applications for special use approval of a Regulated Use, with the exception of a sexually oriented business, shall be processed in the normal course. The following time limits shall apply to the review of an application by the Planning Commission and Township Board for special approval of a sexually oriented business as defined in Article 2.
  1. The Planning Commission will publish notice and hold a public hearing as required for special land use approval review within sixty (60) days of receiving a complete and technically compliant special land use approval and site plan application, as required by Article 6 of this Ordinance, for a sexually oriented business as defined in Article 2.
  2. The Planning Commission will make its recommendation regarding the special approval application for a sexually oriented business at the next regularly scheduled meeting of the Planning Commission following the public hearing held to review the application, unless additional information is required from the applicant. If additional information is required, the Planning Commission will make its recommendation at the next regularly scheduled meeting after receipt of the requested additional

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- information, provided the additional information is received no later than fifteen (15) days prior to the meeting.
3. The recommendation of the Planning Commission will be forwarded to the Township Board within sixty (60) days of the meeting at which Planning Commission issues its recommendation. The Township Board will render its decision to grant or deny special approval of the sexually oriented business or to grant approval with conditions, as stipulated by the Zoning Ordinance at this meeting.
  4. Failure of the Township to act within the above specified time limits shall not be deemed to constitute the grant of special approval to the sexually oriented business.
- E. *Effect of denial.* No applicant for a Regulated Use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions.
- F. *Revocations.* In any case where a building permit for a Regulated Use is required and has not been obtained within six (6) months after the granting of the special approval by the Township Board, the grant of special approval shall become null and void.
- G. *Reconstruction of damaged Regulated Uses.* Nothing in this Section shall prevent the reconstruction, repairing or rebuilding and continued use of any building or structure, the use of which makes it subject to the controls of this Section, which is damaged by fire, collapse, explosion or act of God, provided that the expense of such reconstruction does not exceed fifty percent (50%) of the reconstruction cost of the building or structure at the time such damage occurred, provided that where the reconstruction repair or rebuilding exceeds the above-stated expense, the re-establishment of the use shall be subject to all provisions of this Section and further provided, that the re-established use complies with the off-street parking requirements of Article 11, Access Management, Parking and Circulation of this Ordinance.
- H. *Requirements for sexually oriented businesses.*
1. *Purpose and intent.* It is the purpose of this Ordinance to regulate sexually oriented businesses to promote and protect the health, safety, morals and general welfare of the citizens of the Charter Township of Highland and to establish reasonable and uniform regulations to prevent a concentration of sexually oriented businesses within the Township. These regulations are intended to control the negative secondary impacts such businesses have been documented to have on the surrounding area and the community. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Likewise, it is not the intent of this Ordinance to legitimize activities which are prohibited by Township ordinance or state or federal law.
  2. *Definitions.* Sexually oriented businesses are defined in Article 2, Rules of Construction and Definitions.
  3. *Location of sexually oriented business.*
    - a. A sexually oriented business shall not be located closer than one thousand (1,000) feet to the property line of any of the following:
      - i. A building used primarily for religious worship and related religious activities;
      - ii. A public or private elementary or secondary school, vocational school, special education school, junior college or university;
      - iii. A residential zoning district;
      - iv. A parcel in residential use;

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- v. A public or private park;
  - vi. An existing sexually oriented business; and
  - vii. A child day care facility, nursery or preschool.
- b. A sexually oriented business site shall not be located closer than three hundred (300) feet to the right-of-way of a major thoroughfare within the Charter Township of Highland.
  - c. Measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property site boundary of a sexually oriented business to the nearest property line of the premises of any use, district or right-of-way listed in Sub-Section (1) above or public right-of-way listed in Sub-Section (2) above. The distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects from the site or property boundary in which each business is located. Access easements or portions of the parcel that are exclusively used to provide access to the site of the sexually oriented business shall be excluded from the parcel boundary in determining whether the site complies with the required separation. The intent of this exclusion is to allow sexually oriented businesses to comply with the separation requirement from major thoroughfares by means of an access easement or access strip of land from the site to the thoroughfare.
  - d. A person is in violation of this Ordinance if he/she causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.
  - e. A person is in violation of this Ordinance if he/she causes or permits the operation, establishment or maintenance of more than one (1) sexually oriented business in the same building, structure or portion thereof or the substantial enlargement of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
  - f. All off-street parking areas and entry door areas of a sexually oriented business shall be illuminated from dusk until the closing time in accordance with Article 13, Lighting. This requirement is to ensure the personal safety of patrons and employees, and to reduce the incidence of vandalism and other criminal conduct.
  - g. Any business now classified as a sexually oriented business lawfully operating on the date of adoption of the Ordinance, that is in violation of Section 10.03, Adult Oriented Businesses and Other Regulated Uses, shall be deemed a non-conforming use.
- 4. *Nude entertainment prohibited in alcoholic commercial establishment.* Refer to the Charter Township of Highland Code of Ordinances for additional regulations.
  - 5. *Exterior display and signs.*
    - a. A sexually oriented business is in violation of this Section if:
      - i. The merchandise or activities of the establishment are visible from any point outside the establishment; or
      - ii. The exterior portions of the establishment or signs have any words, lettering, photographs, silhouettes, drawing or pictorial representatives of any specified anatomical area or sexually explicit activity as defined in this Ordinance.
  - 6. *Enforcement.* A violation of the provisions of this Section shall result, in addition to the remedies provided herein, possible criminal violations consisting of a fine of five hundred (\$500.00) dollars or a jail term of ninety (90) days, or both.

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#### **Sec. 10.04. Airports, airstrips and heliports.**

The following regulations shall apply:

- A. The plans for such facilities shall be reviewed and approved by all applicable Federal, State and County agencies related to aviation prior to submittal to the Planning Commission for its review and approval.
- B. Location of runway shall be reviewed relative to effects on residential areas.
- C. If the airport or airstrip will serve more than the property owner, the property must have access to a major thoroughfare.

#### **Sec. 10.05. Bed and breakfast establishments.**

The following regulations shall apply:

- A. *Alterations.* The dwelling unit and all proposed exterior alterations shall be customary to other single family residences in the Township and meet the following:
  - 1. All additions are compatible in style and design with the original structure and surrounding area and will not impact the traffic, the character or the appearance of the Township negatively.
  - 2. The proposed additions can be incorporated back into the structure for a use permitted by right in the district if the Bed and Breakfast establishment terminates in the future.
- B. *Parking.*
  - 1. In residential districts, all required off-street parking shall be located in the side or rear yards and designed to maintain the residential character of the principal use. Parking "lots" are to be avoided and the use of grass pavers or similar materials is encouraged.
  - 2. In commercial districts, all required parking shall meet the standards set forth in Article 11, Access Management, Parking and Circulation.
- C. *Signage.*
  - 1. In residential districts, one (1) non-illuminated sign is permitted stating only the name and address of the bed and breakfast establishment. The sign shall not exceed four (4) square feet and four feet in height.
  - 2. In commercial districts, signs are regulated by Article 14, Signs.
- D. *Operations.*
  - 1. The maximum length of stay of any guest(s) shall be fourteen (14) consecutive calendar days per year.
  - 2. The applicant shall submit proof of the Oakland County Health Department's evaluation of the adequacy of the on-site sewage disposal system, in relation to the number of guest rooms proposed, in addition to the principal residential use.
  - 3. All requirements of this ordinance and any conditions imposed by the Planning Commission shall apply equally to the original applicant and any subsequent owner(s). The owner of a bed and breakfast establishment shall notify the Township in writing thirty (30) days in advance of the proposed sale of the bed and breakfast establishment. The name, address, and phone number of the new owner(s) shall be provided with the notice of proposed sale.



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4. All bed and breakfast establishments shall be inspected by the Township Zoning Administrator, Building Inspector, and Fire Chief. A report from each shall be submitted to the Planning Commission identifying all zoning, building, fire, and safety code issues.
  5. No accessory building or garages are to be utilized for sleeping rooms.
  6. Kitchen facilities shall be used for food preparation for consumption on the site by the owner, operator, residents and overnight bed and breakfast guests only. No food shall be prepared which is taken off-site or which is served to persons other than residents and overnight guests. No cooking facilities are permitted for use by the guests.
  7. The bed and breakfast establishment shall not be used as a banquet facility.
  8. When combined with the owner's residence, the bed and breakfast establishment shall be clearly subordinate to the use of the building as the owner/operator's principal residence; and
  9. Not more than forty percent (40%) of the gross floor area of the dwelling may be devoted to guest rooms.

#### **Sec. 10.06. Boat launching facilities.**

The following regulations shall apply:

Such uses shall comply with Chapter 24, Article III Lake Access and Docking Regulations of the Township Code of Ordinances.

#### **Sec. 10.07. Campgrounds.**

The following regulations shall apply:

- A. The minimum site area shall be twenty (20) acres.
- B. The site shall have direct accessibility to a major thoroughfare.
- C. A minimum one hundred (100) foot setback shall be established around the perimeter of the property for the purpose of buffering a campground in relation to adjacent residentially zoned or used properties. The perimeter buffer shall be kept in its natural state. Where natural vegetation or land contour are insufficient to buffer a campground or recreational vehicle park in relation to surrounding properties, the Township may require additional setback, landscaping, and/or berming.
- D. Mobile homes shall not be permitted to be located within a campground, unless specifically permitted by the Township.
- E. The use and occupancy of a campground shall be in strict compliance with the current laws and requirements of the State of Michigan governing such uses.

#### **Sec. 10.08. Cemeteries.**

The following regulations shall apply:

- A. Maintenance buildings, mausoleums, mortuaries and similar facilities shall have a setback at least eighty (80) feet from any property line.
- B. Screening between maintenance buildings, mausoleums, mortuaries and similar facilities and adjacent residentially zoned or used property shall be provided in accordance with Section 12.04, Screening Between Land Uses.

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**Sec. 10.09. Day care centers, adult or child.**

The following regulations shall apply:

- A. An adult or child day center must have frontage on a major thoroughfare.
- B. The proposed use shall not change the essential character of the surrounding residential area, and shall not create a nuisance.
- C. A child care center located in a residential zoning district may not exceed sixteen (16) hours of operation during a 24-hour period and may not operate between the hours of 10 p.m. and 6 a.m.
- D. The operator must provide an operations plan indicating the number of clients to be cared for, number of employees, and hours of operation. The plan must indicate traffic patterns for pickup and drop off of the clients, including designation of suitable parking areas. Off-street parking must be provided for any employees. The operation plan is subject to review and approval by the Planning Commission.
- E. Screening between the outdoor play area adjacent residentially zoned and used property shall be provided in accordance with Section 12.04, Screening Between Land Uses.
- F. Fencing of portions of the site where it is necessary to ensure the safety and security of the clients shall be provided unless it is determined by the Planning Commission that the applicant has satisfied this condition through other means. A fenced outdoor play area of at least five thousand (5,000) square feet must be provided.
- G. Signage must comply with the provisions of Article 14, Signs.

**Sec. 10.10. Construction contractors' open storage yards.**

The following regulations shall apply:

- A. Such uses shall have front, side or rear yard setbacks of two hundred (200) feet when adjacent to any property zoned residential. Such spaces shall be screened in accordance with Section 12.04, Screening Between Land Uses, or maintained as a greenbelt in accordance with Section 12.06, Greenbelts, whichever is applicable.
- B. If it is deemed essential by the Planning Commission to prevent loose materials from blowing onto adjacent properties, a fence, tarpaulin or obscuring wall of no less than six (6) feet shall be required around the stored material.
- B.[C.] No required yard spaces shall be used for the storage of equipment or material.

**Sec. 10.11. Skilled nursing care facilities and homes for the aged.**

The following regulations shall apply:

- A. The minimum site area shall be four (4) acres.
- B. The site shall have direct access to a major thoroughfare or an approved private road designed for commercial traffic and subject to a maintenance agreement.
- C. Buildings shall be set back at least fifty (50) feet from any property zoned or used for single family residential use.

( Ord. No. Z-014 , § 3, 6-12-2019)

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## **Sec. 10.12. Equestrian sports academies.**

The following regulations shall apply:

- A. The minimum site area shall be ten (10) acres.
- B. Outdoor pens, corrals, riding rings and/or arenas shall be located no closer than fifty (50) feet from any property line, or at least one hundred (100) feet from existing schools, churches, or residentially zoned or used property.
- C. Permanent lighting shall meet the provisions of Article 13, Lighting. The use of additional event lighting shall be temporary. The use of temporary event lighting shall only be allowed between the hours of 8:00 am and 11:00 pm.
- D. Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and recording devices, shall not be operated outdoors on the premises so as to be unreasonably loud or raucous, or so to be a nuisance or disturbance to the peace and tranquility of the citizens of the Township. The use of sound producing equipment shall only be allowed between the hours of 8:00 am and 11:00 pm.
- E. Events held outdoors, in whole or in part, at such a facility and that is open to participants beyond those who board or train at the facility are only allowed if specifically permitted by the Township.
- F. Off-street parking, loading and unloading shall be provided in accordance with the standards set forth in Article 11, Access Management, Parking and Circulation, except that the requirements for hard-surfacing may be waived by the Township.
- G. One single-family dwelling, occupied by the owner or manager of the equestrian facility, will be considered customary and incidental as part of this use.

## **Sec. 10.13. Farm Markets.**

The following regulations shall apply:

- A. All Farm Markets shall comply with the Generally Accepted Agricultural Management Practices for Farm Markets as promulgated by the Michigan Commission of Agriculture and all applicable regulations of this Zoning Ordinance.
- B. Outdoor display and sales of farm products may occupy required front and side yards, provided a 20 foot buffer is provided between the right-of-way and all display areas.
- C. Structures of a temporary nature, such as tents, canopies and sheds not attached to permanent foundations or vehicles such as wagons used for display may be permitted within required front yard setbacks subject to the following:
  - 1. Maximum size of structure is 100 square feet.
  - 2. Structure shall not be placed within 20 feet of right-of-way or in any clear vision area.
  - 3. Structure shall be removed from required yards during "off-season" periods when no daily sales activity is underway.
- D. Activities and events shall comply with the following:
  - 1. Activities and events shall meet all required setbacks from property lines abutting residentially zoned or used properties.
  - 2. Adequate off-street parking must be provided to ensure customer safety.

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3. Temporary signs associated with the event, such as banners and sandwich boards shall comply with Section 14.07A, Agricultural Retail Signs.
  4. Any outdoor sound system must be operated so that no sound is conveyed beyond the property line.
  5. The premises shall be kept clean, orderly and well-maintained.
- E. Off-street parking shall be provided as follows:
1. Number of spaces:
    - a. 3 spaces minimum; and
    - b. 1 space per 200 square feet of interior retail space and "open air" retail space under cover such as canopy or tent; and
    - c. 1 space per 1000 square feet of exterior sales and display space.
  2. Parking areas may be provided on lawn provided a defined and improved drive entrance is provided and all necessary permits are obtained. Appropriate barriers such as landscaping or decorative fences shall be provided to discourage patrons from entering or exiting the site in areas other than the approved drive location. The Planning Commission may require that a portion or all of a parking area be improved with gravel or paved surface where the anticipated use is greater than 90 days per year.
  3. No parking area shall be located within ten feet of any right-of-way or property line.
- F. Every effort shall be made to locate off street parking and outdoor activities where natural topography and/or existing plant materials provide a buffer or screen for adjacent residential properties. The Planning Commission may require supplemental plantings or screen fences and/or larger setbacks where it is anticipated that the intensity of the activity may create a nuisance.

#### **Sec. 10.14. Golf courses, par 3 courses and driving ranges.**

The following regulations shall apply:

- A. All buildings shall meet the setbacks in the district in which they are located.
- B. Buildings, parking areas, outdoor speaker systems, lighting and other site features shall be located to minimize any negative impacts on adjacent residential property.
- C. All storage, maintenance and service areas shall be screened in accordance with Section 12.04, Screening Between Land Uses.

#### **Sec. 10.15. Group child care homes.**

In addition to Federal, State and local regulations, the following regulations shall apply:

- A. A group child care home must maintain the property consistent with the characteristics of the neighborhood, including but not limited to landscaping.
- B. Fencing of portions of the site where it is necessary to ensure for the safety and security of the children shall be provided unless it is determined by the Planning Commission that the applicant has satisfied this condition through other means.
- C. A fenced outdoor play area of at least two thousand five hundred (2,500) square feet must be provided.

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- D. A group child care home may not exceed sixteen (16) hours of operation during a 24-hour period. The Planning Commission may limit, but not prohibit the operation of a group child care home between the hours of 10 p.m. and 6 a.m.
  - E. The operator must provide an operations plan indicating the number of children to be cared for, number of employees, and hours of operation. The plan must indicate traffic patterns for pickup and drop off of the children, including designation of suitable parking areas. Off street parking must be provided for any employees. The operation plan is subject to review and approval by the Planning Commission, who may, at their discretion, place reasonable conditions on the operations of the group child care home.

### **Sec. 10.16. Hospitals.**

The following regulations shall apply:

- A. The site shall have a minimum five hundred (500) feet contiguous frontage along a major thoroughfare. Main access points shall be onto major thoroughfares.
- B. Access to individual uses shall be an internal roadway system.
- C. No power plants, storage or maintenance buildings shall be permitted within four hundred (400) feet of a public street.
- D. Pedestrian systems connecting visitor parking to building entrances shall be provided.
- E. Ambulance, emergency and delivery areas shall not face a public street and shall be screened from view of residential uses by use of walls, berms and landscaping.

### **Sec. 10.17. Institutional uses.**

The following regulations shall apply:

- A. *General standards.*
  - 1. Institutional uses may not be established in residential zoning districts except where the parcel abuts a major thoroughfare.
  - 2. A Traffic Management Plan must be submitted with the application for special use and/or site plan.
  - 3. Screening requirements adjacent to residential properties shall be consistent with Section 12.04, Screening Between Land Uses.
  - 4. All activities shall take place in a fully enclosed building except as may be approved by the Planning Commission.
  - 5. There shall be no outside loudspeakers or amplified sound outside of a totally enclosed building.
  - 6. Facilities incidental to religious institutions, when located in residential districts, must be used for worship or religious education purposes, in a manner which is consistent with residential zoning and compatible with adjacent residential property. No buildings shall be used, leased, or rented for commercial purposes.
- C. *Standards specific to large-scale institutions.* Large-scale institutions may have negative impacts on single-family residential areas because of the scale of buildings, parking, traffic and frequency of use, which are different from similar smaller uses and smaller institutions that have traditionally been

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compatible with single-family areas. Because of these impacts, large-scale institutions are more compatible with non-residential districts, subject to conditions which minimize these impacts.

Each large-scale institution permitted as a special land use shall meet the following conditions in addition to all other provisions of this Ordinance. These standards are intended to restrict large-scale institutions to suitable locations, and to mitigate any adverse impacts of the uses on the community.

1. The site shall have at least one hundred and fifty (150) feet of frontage on a major thoroughfare with an existing or planned right-of-way of not less than one hundred and twenty (120) feet. All ingress and egress to the site shall be directly onto such major thoroughfares.
2. All buildings, structures and parking and loading areas shall setback the minimum principal structure setback in which the use is located or the setback of the abutting residentially zoned parcels, whichever is greater. Such setback area shall be heavily landscaped so as to create a visual and physical separation between the two unlike land uses, forming an effective screen in compliance with the provisions of Section 12.04, Screening Between Land Uses.
3. Traffic from events (including worship services) and other large assemblies shall be controlled by the facility so as not to create congestion or unreasonable delays on the public street. A schedule of expected frequency of events and assemblies (including worship services), a description of the method(s) of traffic control and a traffic impact study shall be presented to the Planning Commission for approval.
4. Associated uses on the site such as recreation centers, retreat facilities, conference centers, schools (if not the primary use), convents, and other similar uses shall meet all requirements of this Ordinance for such uses.
5. There shall be no outside loudspeakers or amplified sound outside of a totally enclosed building.

#### **Sec. 10.18. Kennels.**

The following regulations shall apply:

- A. Any building or fenced area where animals are kept shall be located a minimum of one hundred (100) feet from any public right-of-way, one hundred (100) feet from any property line, and one hundred fifty (150) feet from any residential dwelling located off the premises. These setbacks are to prevent noise and odor from negatively affecting surrounding properties.
- B. An operation and maintenance plan shall be submitted that specifically addresses how noise will be attenuated and waste handled.
- C. Any permit requirement of County and State agencies shall be met.

#### **Sec. 10.19. Large animal veterinary clinics.**

The following regulations shall apply:

- A. Any building or fenced area where animals are kept shall be located a minimum of one hundred (100) feet from any public road right of way, and one hundred (100) feet from any property line.
- B. An operation and maintenance plan shall be submitted that specifically addresses how noise will be attenuated and waste handled.

#### **Sec. 10.20. Massage establishment.**

The following regulations shall apply:

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A. *Standards.*

1. No massage establishment shall be open for business between the hours of 11:00 p.m. and 6:00 a.m.
2. The establishment shall provide a waiting area for patrons separate from any area where massages are given. Direct access to the waiting area must be from the main entrance or from the hallway connected to the main entrance.
3. Rooms in which massage is to be practiced or administered shall maintain adequate open space to maneuver fully around the massage table. Massage rooms shall not be locked during business hours or during massage therapy sessions.

**Sec. 10.21. Petroleum bulk stations and terminals.**

The following regulations shall apply:

- A. Such uses shall be located only on a paved major thoroughfare.
- B. The lot size shall be a minimum of ten (10) acres.
- C. Such uses shall be located at least five hundred (500) feet from any residential district.
- D. A minimum front yard setback of two hundred (200) feet, a minimum rear yard setback of one hundred (100) feet and a minimum side yard setback of one hundred (100) feet shall be provided. This space shall be maintained as a greenbelt in accordance with Section 12.06, Greenbelts.

**Sec. 10.22. Salvage yards.**

The following regulations shall apply:

- A. No such use shall be allowed within three hundred (300) feet of any residential district.
- B. Open burning is prohibited.
- C. Due to the prevalence of solvents, lubricants and fuels associated with salvage yards, operations shall be in accordance with an approved plan for protecting ground and surface water contamination by hazardous materials. Said plan shall be submitted and reviewed pursuant to site plan review.
- D. Screening shall be provided in accordance with Section 12.04, Screening Between Land Uses, except that such screening shall be a minimum of eight (8) feet in height.
- E. Materials shall not be stacked higher than the screening.

**Sec. 10.23. Taxidermist facility.**

The following regulations shall apply:

- A. Due to the nature of this use extra precautions are needed to protect the local environment from pollution. This section also requires that taxidermist facilities adhere to all applicable Local, State, Federal laws and regulations and also the criteria in this Ordinance.
- B. The proposed use shall not change the essential character of the surrounding area, create nuisances, odors, and health issues or burden the adjacent uses.
- C. The Planning Commission shall be provided with a plan for daily operations including detailed Material Handling data sheets for any chemicals handled on site and a plan for waste disposal.

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- D. Outdoor storage is prohibited.

**Sec. 10.24. Wireless communications facilities.**

- A. *Intent.* The purpose of this Section is to carry out the will of the United States congress by permitting facilities with the Township that are necessary for the operation of wireless communications systems, and facilitate adequate and efficient provision for wireless communications facilities sites. It is the intent of this Section to:
  - 1. Permit the location of wireless communication facilities within given geographical areas of the Township, while protecting the safety and character of nearby residential areas and the Township as a whole;
  - 2. Require collocation of transmission and receiving apparatus and antennae on existing towers, unless it can be reasonably demonstrated that such collocation is not technically feasible;
  - 3. Require new and replacement wireless communication towers to include provision for collocation wherever technically feasible;
  - 4. Prevent potential damage to adjacent properties from tower failure, and promote the timely removal of facilities upon the discontinuance of use;
  - 5. Require wireless communication towers and antennae to be configured in a way that minimizes adverse visual impacts, through careful design, siting, landscaping, screening elements, and camouflaging techniques;
  - 6. Establish consistent review procedures and information requirements for construction, alteration, and enlargement of wireless communication facilities; and
  - 7. Permit administrative review and approval of certain types of project that have a limited scope and impact, such as amateur radio antennae, satellite dish antennae, and collocation of additional antennae on an existing, approved wireless communication towers.
- B. *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna(e). An applicant shall submit the following information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology:
  - 1. No existing towers or structures are located within the geographic area that meet the applicants engineering requirements.
  - 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - 4. The applicant's proposed antenna(e) would cause electromagnetic interference with antennae on existing towers or structures, or the antennae on existing towers or structures would cause interference with the applicant's proposed antenna(e).
  - 5. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing shall not be unreasonable. Costs that exceed new tower development are presumed to be unreasonable.
  - 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.



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7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceeds new tower or antenna development shall not be presumed to render the technology unsuitable.
  8. The Township may hire specialized experts to review data submitted by the applicant. The applicant shall incur all costs associated with such review.
- C. *Information required.* In addition to any information required by this Article, applicants for a wireless communication facility shall submit the following information:
1. *Site inventory.* Each applicant shall provide an inventory of the existing towers, antennae, or sites approved for towers or antennae that are within Highland Township and within one (1) mile of the border thereof, including specific information about the location height, and design of each tower, and the following:
    - a. The separation distance between the proposed wireless communication facility and other structures shown on the site inventory. The applicant shall also identify the type of construction of existing towers.
    - b. A description of the feasible locations(s) of future wireless communication facilities proposed or anticipated by the applicant within the Township, based on existing physical, engineering, technological, or geographical limitations in the event the proposed tower is erected.
  2. *Site plan.* A site plan prepared shall be submitted along with any other information required by this Article.
    - a. All applicable information required for site plan approval per Article 5, Site Plan Review.
    - b. The location, type and height of the proposed tower; on-site and abutting land uses and zoning, including across road rights-of-way; adjacent roadways and proposed means of access; topography, parking; setbacks from property lines, elevation drawings of the proposed tower and any other structures.
    - c. A maintenance plan to ensure long term, continuous maintenance to a reasonably prudent standard for the site, structures, fences, access and landscaping.
    - d. Legal description of the parent parcel and leased parcel (if applicable).
    - e. Setback distances between the proposed tower and the nearest residential unit.
    - f. Fencing and screening details, proposed methods of camouflage where applicable, and details of any tower illumination.
    - g. A landscape plan in accordance with Article 12, Landscaping.
    - h. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall. The certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
    - i. The application shall include a copy of the lease agreement between the applicant and the property owner to verify terms of the agreement.
- D. *General regulations.*
1. All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and

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maintained with any additional conditions imposed by the Planning Commission and/or the Township Board:

- a. Facilities shall not be injurious to neighborhoods or otherwise detrimental to the public health safety and welfare.
  - b. Facilities shall be located and designed to be harmonious with the surrounding areas.
  - c. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
  - d. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights
2. The following additional standards shall be met:
- a. *Height.* The maximum height of the new or modified support structures, towers and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on the structures). The ground equipment and accessory buildings contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
  - b. *Setback.* The minimum setbacks for ground equipment and accessory structures shall be limited to the minimum setback within the respective district. The minimum setback for tower or antenna(e) shall be the height of the tower or antenna or the antenna(e) fall zone as demonstrated by a certification required under Section 10.24.C.2.h.
  - c. *Access.* There shall be unobstructed access to the wireless communications facility, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment, including emergency vehicles, which may need to access the site.
  - d. *Division of property.* The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning ordinance requirements and conditions are met.
  - e. *Ground equipment enclosures.* Ground equipment enclosures for wireless communication facilities proposed on the roof of a building, shall be designed, constructed and maintained to be architecturally compatible with the principal building. An equipment enclosure may be located within the principal building or may be an accessory building. If the equipment enclosure is proposed as an accessory building, then it shall conform to all district requirements for principal buildings, including yard setbacks.
  - f. *Color.* The Planning Commission shall review and approve the color of towers, support structures and all accessory buildings. The color must minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings.
  - g. *Lighting.* If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. The use of strobe lights on a tower shall be prohibited in the absence of a demonstrated need. For general lighting requirements refer to Article 13, Lighting.
  - h. *State and federal regulations.* All wireless communication facilities shall meet or exceed applicable federal and state regulations and standards.

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- i. *Engineering certification.* Any civil, mechanical or structural engineering information supplied by the applicant shall be certified by a licensed professional engineer.
  - j. *Structural design and installation.* The plans for the tower construction shall be certified by a registered structural engineer, and the applicant shall submit verification that the installation is in compliance with all applicable codes. All structures must meet all applicable standards of the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC).
    - i. To ensure its structural integrity, the owner of a tower shall ensure that it is maintained in compliance with the State Construction Code, other applicable building, fire and electrical codes, and applicable standards for structures.
    - ii. A soils report from a geotechnical engineer, licensed in the State of Michigan shall be submitted with the application. The soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use.
    - iii. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- E. *Development agreement.* The development agreement as required in Section 3.12, Development Agreements shall include a signed and notarized removal agreement for the future removal of the wireless communication facility. A performance guarantee ensuring future removal shall be included as part of the development agreement. The development agreement must include the name, address and phone number of the person to contact for engineering, maintenance and other notification purposes. This information shall be continuously updated during all times the wireless communication facility is on the premises.
- F. *Conditions requiring removal.*
- 1. Wireless communications facilities not used for one hundred eighty (180) days or more must be removed. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The applicant shall notify the Township upon cessation of operations or removal of antenna.
  - 2. Wireless communications facilities must be removed one hundred eighty (180) days after new technology is available, at a reasonable cost, which permits the operation of the communication system without the requirement of towers. Reasonable cost shall be determined by the Township Board.
  - 3. If removal of a wireless communication facility is required, the owner of the wireless communication facility shall immediately apply for and secure demolition permits, and immediately proceed with and complete the demolition/removal, and restoration of the site to an acceptable condition as determined by the Planning Commission.
  - 4. If the required removal of a wireless communication facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected in accordance with the development agreement.
- G. *Refusal of collocation.*
- 1. If the owner of a wireless communication facility fails or refuses to alter a structure so as to accommodate a technically feasible collocation, such facility shall be deemed to be a non-conforming structure and use, and shall not be altered, expanded or extended in any respect, except to allow a conforming collocation.

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2. If failure to allow a technically feasible collocation results in the construction or use of a new facility, the owner of the wireless communication facility where collocation was refused, shall be deemed to be in direct violation of the Zoning Ordinance and shall be prohibited from receiving approval for a new wireless communication support structures within the Township for a period of five (5) years from the date of the failure or refusal to permit the collocation.
  3. A variance may be obtained from the Zoning Board of Appeals if the applicant demonstrates that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

### **Sec. 10.25. Yard waste composting facilities.**

The following regulations shall apply:

1. Maximum site size for yard waste composting facilities in the ARR District shall be twenty (20) acres. A minimum site size of five (5) acres is required for such uses in the IM District.
2. Due to the level of truck traffic associated with this use, major thoroughfare is required.
3. All internal roads and operation areas shall be kept dust-free at all times.
4. The site shall be level and well drained.
5. A buffer zone shall be maintained where no composting, storage, transfer or loading activities may take place any closer than two hundred fifty (250) feet from adjoining property lines. All buffer areas shall include screening provided in accordance with Section 12.04, Screening Between Land Uses.
6. All site access roads or drives and all parking areas shall be paved with asphalt or concrete. The Township may require a paved processing area to accommodate the initial collection, processing, and distribution of incoming yard waste. The Township may seek the advice of a compost expert in making site design and operational requirements, with fees to be paid for by the applicant. Internal haul roads may be unpaved.
7. The portion of the compost site visible from a public street shall be screened from public view in accordance with Section 12.04, Screening Between Land Uses.
8. A minimum of two (2) off-street parking spaces plus one (1) per employee on the largest working shift shall be provided on-site.
9. Access to the site shall be controlled to prevent unauthorized dumping during non-business hours. The operator shall establish a procedure and mechanism for proper disposal of non-yard waste at an approved sanitary landfill.
10. Only yard waste shall be composted at such facilities, typically including leaves, grass clippings, brush, and tree or shrub trimmings. All yard wastes must be brought to the site loose or in biodegradable bags, such as paper, designed to degrade rapidly under aerobic conditions. All bags brought to the site shall be broken up and turned into compost windrows within five (5) days of delivery to the site. In no instance shall yard wastes be accepted in nondegradable plastic bags.
11. The decomposition process shall be properly managed and maintained in an aerobic condition to prevent all unnecessary odors. Towards this end, the temperature of compost piles shall be monitored regularly, and all compost piles that are actively decomposing shall be turned when the internal temperature drops below 120°F.
12. Poned water shall not be permitted to collect on a yard waste composting site, except for a reasonable time immediately following a rain event, as determined by the Township following a

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recommendation by the Township Engineer. A plan for collection, detention, and drainage of storm water shall be provided for review and approval by the Township. Storm water shall be directed to a sedimentation pond/detention area prior to discharging off-site. The Township may permit or require sheet flow over a vegetated swale or other best management practice to filter pollutants prior to discharge off-site. Any direct discharge to a water body may require a Michigan Department of Environmental Quality permit.

13. The operator shall provide sufficient equipment on-site to properly manage the composting process. As a minimum, this shall include a front end loader or similar machinery for loading, unloading, turning, and aeration operations; a shredder for reducing new material to a smaller particle size for faster decomposition; a source of water or watering trucks; and a screen to improve the quality and marketability of the final product.
14. The volume of yard wastes handled by the facility shall not exceed the practical capacity of the site. The Township may seek advice from a compost expert in reviewing this or other site and operational issues.
15. The Applicant shall submit a Compost Operations Management Plan with the preliminary site plan. This plan shall provide details regarding the daily operations of the proposed compost facility. The following minimum information shall be included in the plan:
  - a. The name, address, and phone number of the person responsible for operation of the site and the person responsible for correcting all operational problems that may result in complaints being made to the Township.
  - b. A detailed description of the type of material that will be accepted.
  - c. A detailed plan on how unacceptable material will be removed from the incoming waste stream and removed from the site.
  - d. A plan for the processing of materials including a) initial handling, b) active composting, and c) finishing of material for the aftermarket.
  - e. A stormwater management plan including a written description of how stormwater will be processed and how problems, including unexpected ponding of water, will be addressed.
  - f. A traffic impact analysis indicating how many trips will be expected during the a.m. peak hour, p.m. peak hour, and on a daily basis. The trips shall be classified by type of vehicle, including passenger cars and trucks. Truck traffic shall be classified by weight and truck capacity and by whether it is carrying inbound material or finished product. The study shall include recommendations regarding deceleration lanes, passing or center left-turn lanes, and driveway geometrics.
16. The operator understands and agrees that failure to maintain and operate the site in a responsible manner that minimizes the potential for adverse impacts on neighboring properties shall constitute grounds for enforcement action by the Township.
17. Yard wastes shall be actively rotated in an aerobic condition. Wastes shall not be allowed to accumulate for longer than two (2) years before being finished and removed from the site.
18. The operator shall provide plans showing all equipment maintenance and storage areas. Plans shall show the location of all fuel storage facilities and shall detail primary and secondary containment for all hazardous materials, including product-tight containers for primary containment. Hours of operation shall also be specified and are subject to review and approval by the Township.
19. The applicant shall provide a plan for the removal of unmarketable compost.

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20. An annual inspection/permit fee for all yard waste composting facilities shall be established by resolution of the Township Board.
  21. The operator shall keep a manifest documenting the quantity of yard waste going in and finished product and other material going out of the facility on a weekly basis. Said manifest shall be summarized in an annual report to be provided to the Township on the anniversary of the first day of operation. It shall also be available for inspection by Township officials upon twenty-four (24) hours notice.
  22. Copies of all Michigan Department of Natural Resources and Department of Environmental Quality applications / permits, if required, shall be provided to the Planning Commission as part of the application package.
  23. The use shall conform to all applicable performance standards in Section 8.06, Environmental Performance Standards, including, but not limited to, noise, dust and smoke, as contained in this Ordinance.

### **Sec. 10.26. Mineral extraction and mining.**

- A. *Applicability.* This section is intended to regulate the use of land for all type of mineral extraction and mining. The extraction of oil and gas is not regulated by this section. This section provides procedures for the evaluation of applications for the issuance of special land use permits to establish such mining and quarrying uses. Special use regulations and special use application evaluation procedures are needed because mining and mineral extraction may pose significant land use problems, including environmentally damaging changes in topography, impairment of load bearing capacity of adjacent land, safety hazards due to heavy truck traffic on roads not designed for such traffic, levels of noise from mining and related operations, threats to air quality from dust and other emissions, threats to water quality from erosion and chemical emissions, threats to water levels, aesthetic problems, zoning and license enforcement problems, land use compatibility problems, loss of natural resources, threat to desirable land use patterns and potentials, residential blight, and/or attractive nuisance hazards.

No mining or mineral extraction shall be permitted unless the Township Board shall first have issued a special land use permit in accordance with the provisions of this section. Special land use permits shall be issued only in accordance with the procedures and standards set forth herein. It is the intent of these procedures and standards to ensure that mining and quarrying shall occur in places and ways which will be consistent with public health, safety and welfare and to ensure that lands subject to mining operations shall continuously be reclaimed and rendered fully suitable for a use approved pursuant to issuance of the applicable special land use permit.

- B. *Exemptions.* Mining and mineral extraction shall not include the removal from a single parcel of land during any calendar year of: 1) less than 1,000 cubic yards of material when such removal is NOT attendant to development in accordance with a subdivision preliminary approval, or 2) less than 10,000 cubic yards of material when such removal is attendant to development in accordance with a subdivision preliminary approval. All removal which is not regulated as mining and mineral extraction shall be subject to the site plan review provisions of this ordinance, in the case of removal attendant to development subject to site plan review, and to the soil erosion and sedimentation control regulations of Highland Township, in the case of all removal. Such removal of earth resources may also be subject to any land improvement ordinance or other pertinent regulations which Highland Township may enact subsequent to the enactment of this ordinance.
- C. *Mining and Mineral Extraction Special Land Use applications.*
  1. An application for a Special Land Use permit for mining and mineral extraction shall be submitted jointly on behalf of, and signed by, each person or entity having ownership of the land on which the use is to be located, including, but not limited to, all Applicants and all Lien holders (as those terms are defined in Section 10.26.C.2). The application shall contain the sworn certificate of each such person or

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entity certifying as to the accuracy and completeness of each statement pertaining to it contained therein. The application shall not be eligible for consideration until it is in satisfactory form, has been duly executed, and has been submitted to the Zoning Administrator, accompanied by all necessary fees as provided in this ordinance.

2. The application shall be made on forms provided by the Zoning Administrator and shall be accompanied by such documentation as is required to determine compliance with this ordinance, but not less than the following:
  - a. The name and address of each person or entity having ownership of the land (whether as owner, tenant, optionee, vendor, vendee, or otherwise), vested or contingent, present or future, direct or indirect, but excluding any Lien holder on which the use is to be located (all such persons and entities are hereinafter collectively referred to as the "Principals"), together with a description of each Principal's interest in the land.
  - b. The name and address of each person or entity having ownership of the land which confers, or will confer, any right of access, development, operation, or other right in the land on which the use is to be located, whether vested or contingent, and should include, but shall not be limited to, a person or entity that is a party to a lease, development agreement, operating agreement, or any other agreement which pertains to a mining or quarrying operation on the land on which the use is to be located, the removal of resources from the site, or contracting with others for any such activity (all such persons and entities are hereinafter collectively referred to as the "Operators"), together with a description of each Operator's interest.
  - c. The name and address of each other person or entity having ownership of the land or in the development thereof or any operation thereon, together with a description of each of their respective interests in the land on which the use is to be located.
  - d. All Principals, all Operators, and every other person or entity having ownership of the land or in the development or operation thereof, but not including any Lien holder shall be collectively referred to herein as the "Applicants."
  - e. Specification of the location, size and legal description of the land for which special land use approval is sought, together with any and all adjoining land in which any of the applicants and/or any person or entity affiliated with any of the applicants has any interest (whether as owner, tenant, optionee, vendor, vendee, Lien holder or otherwise; vested or contingent, present or future, direct or indirect).
  - f. A record search of title to the lands described in subsection "e" above prepared by a reputable title company satisfactory to Highland Township certified as of a date not more than thirty (30) days prior to the date of application and disclosing all interests in the land on which the use is to be located, including but not limited to the interests of each Applicant and each lien or security interest with respect to any portion of such land.
  - g. A statement in writing from each holder of a lien or other security interest in any part of the land on which the use is to be located (all such persons and entities being hereinafter collectively referred to as "Lien holders"), acknowledging each Lien holder's willingness to subordinate its interest in the land to the interest of Highland Township in the exercise of its rights under the ordinance and any special use permit with respect to the restoration of the land in accordance with any Operations and Restoration Plan that may be entered into with respect to said land.
  - h. The name, address and telephone number of one person, firm or corporation designated by each Applicant and each Lien holder as agent for all for the purpose of receiving all notices, correspondence and communications in connection with this ordinance.

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- i. Name and address of the banking or savings and loan entity which is to issue the irrevocable letter of credit or other surety to be posted pursuant to Section 3.09, Permit Fees and Performance Guarantees, and/or Section 10.26.I, Surety Requirements, if applicable.
  - j. Sworn statement that none of the Applicants has defaulted on any financial surety posted to ensure performance in connection with any mining and/or construction activity, or if any of the Applicants has defaulted on any such bond, a brief description of the circumstances surrounding the default, including the name of the surety, date of default and any remedial action which was taken.
  - k. The name of each Applicant's carrier for public liability and property damage insurance and policy limits thereof, together with current certificates of insurance for coverage's required under this Ordinance.
  - l. Vertical aerial photographs, enlarged to a scale of one (1) inch equals two hundred (200) feet, from original photographs at a negative scale no smaller than one (1) inch equals one thousand (1,000) feet. The area covered by the vertical aerial photographs shall include: all land subject to the application; all contiguous land which is proposed to be used or has been used by any of the Applicants for any extraction, treatment or storage; all roads which can provide access to any land involved in the proposed operation; all roads other than state trunk lines which may be used to haul mined material; and all lands within one mile of each of the aforementioned areas. Each such area or feature shall be delineated on the aerial. All aerial photographs shall be taken not more than one year prior to the date of the application of which they are a part.
  - m. Twenty (20) copies of an identification and topographic survey, prepared by an engineer or surveyor licensed by the State of Michigan to prepare such a survey, drawn to a scale of one (1) inch equals two hundred (200) feet with topographic contours drawn at two foot intervals on U.S.G.S. datum. This survey shall include the boundary of the entire tract by courses and distances, all boundaries of the areas subject to the application, and the means of vehicular access to the proposed operation.
  - n. Twenty (20) copies of an isopach survey or other comparable geologic data indicating the location of deposits to be mined and the basic data and collection methods upon which such survey is based. Elevations shall be based on U.S.G.S. datum.
  - o. An estimate of the quantity of excavation on the site and the extent of resources on undeveloped land within one mile of the site.
  - p. Report by a qualified independent soil scientist, soils engineer, hydrologist, hydro geologist or geologist regarding the surface water, the level of the water table and the size and location of existing and new water bodies on the site and within one mile of the site. The report shall include an opinion as to each and every effect on the water table and private wells of property within the reasonably anticipated area of impact during and subsequent to the operation. The report shall also include an opinion whether the exposure of subterranean waters and/or the impoundment of surface waters, where permitted, will establish a stable water level at the level or levels proposed as part of the operation, and that the same will not interfere with existing subterranean water or cause any harm or impairment to the general public. The report shall include a ground and surface water quality analysis based on samples taken not more than one year prior to the date of the application of which the report is a part. The analysis shall be completed in accordance with engineering standards duly adopted by the Highland Township Board of Trustees. The report shall provide base line water quality data to be used in determining compliance with the requirements of this ordinance.
  - q. A detailed Operations and Restoration Plan for the extraction of the natural resource deposits and restoration of the site. The plan shall:



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- i. Set forth in detail the arrangement and nature of all operations, including the quantity of each type of material to be removed and the machinery, equipment and methods to be used in the operation.
  - ii. Set forth a detailed explanation as to routing of commercial vehicles and their size, weight and frequency of trips. If different routes will be used at different stages of the operation, a timetable for routing shall be included. The Applicant shall submit these proposed routings to Highland Township, affected adjoining townships, the Oakland County Road Commission, and the Michigan Department of Transportation for review of the physical and design capabilities of these routes to accommodate the potential traffic, including turning movements to and from the site at all points of egress and ingress. A letter from each jurisdiction indicating their comments shall be included as part of this application.
  - iii. Set forth in detail the types and amounts of explosives proposed to be used, and the areas to be blasted.
  - iv. Set forth in detail the amount and source of water to be utilized in processing, and the anticipated means and location of dispersals of such water following use.
  - v. Set forth in detail those features of the arrangement and nature of operations which will ensure that the operations have minimum negative impact on adjacent areas and on areas affected by the routing of trucks and other commercial vehicles.
  - vi. Set forth in detail the procedures to be employed to protect groundwater, watercourses, water bodies and wetlands from contamination and erosion directly or indirectly caused by extraction and restoration activities. Procedures should include the use of monitoring wells and the periodic sampling of watercourses and water bodies and the termination of mining activities if any of the periodic samplings indicate damage from contamination or erosion. Monitoring wells may be omitted if the Township Board finds, based on specific facts that they are not needed to ensure protection of water quality.
  - vii. Set forth in detail the procedures to protect groundwater levels and the direction and flow rates of subsurface aquifers. Methods for the disposition by controlled flow or controlled drainage of any excess water into existing drains or watercourses shall be specified. Methods shall be such that the facilities of such drain and/or water course shall not be unduly burdened by the introduction of the additional drainage. Procedures should include the use of monitoring wells at the perimeter of the property and the termination of mining activities if monitoring wells indicate that impacts on groundwater could result in significant draw down of existing wells or the region's water table. Monitoring wells may be omitted if the Township Board finds, based on specific facts that they are not needed to ensure protection of water quantity and flow.
  - viii. Set forth in detail a timetable for each stage of the operation and a plan for restoration in one or more phases. The restoration plan shall specify:
    - (a) The use or uses to which each restored area will be put.
    - (b) The dates by which areas will be restored, as interim restored areas and final restored areas pursuant to Subsection 10.26.L.2.a.
    - (c) The restoration topography drawn as contours at an interval of two (2) feet on U.S.G.S. datum.
    - (d) The location of water bodies and other major physical features.
    - (e) The location of areas to be partitioned or subdivided, and the proposed layout of such areas.

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- (f) The methods and materials proposed for reclamation including topsoiling and the amount and type of plantings.
  - ix. Provide for operations and restoration in conformance with the provisions of Section 10.26.L, Operation Requirements for Mining and Mineral Extraction Special Land Uses, and Section 10.26.M, Restoration Requirements.
3. The application for approval of a mining Special Land Use may be accompanied by an application for a change in the zoning designation of the subject property, provided all applicable requirements for a zone change are met.
  4. The Applicants shall be responsible for payment of all application fees, including but not limited to all costs incurred by the township in reviewing and evaluating the application, as herein provided. The application shall be accompanied by a deposit against the application fee, which fee shall be in an amount sufficient to cover all costs of the Township associated with review of the application. Such costs may include, but shall not be limited to, costs of providing required public notice and thorough independent, professional technical reviews of all issues pertinent to consideration of the application. Technical reviews shall address such issues as land use impacts, land value impacts, traffic flow and traffic safety impacts, water quality impacts, other natural resource impacts, compliance enforcement problems, land restoration costs and other technical issues. Independent technical reviews shall be prepared by appropriately qualified independent professionals to a level of detail appropriate to the proposed mining operation. The Township Board shall from time to time establish by resolution the amount of the application fee deposit for each application, on a case-by-case basis.
- D. *Mining and Mineral Extraction Special Land Use application procedures.*
1. Mining and Mineral Extraction Special Land Use applications review shall follow Article 7, Special Land Use Procedures and Standards, and the following:

The Planning Commission shall make a recommendation regarding the special approval with conditions, or disapproval as per Article 6, Special Land Use Procedures and Standards, specifically, section 6.03, Review Procedures. The Planning Commission's recommendation shall be based on all available factual materials and public hearing comments pertinent to the requirements of this Section in general, and pertinent to the requirements and standards of Sections 10.26.C, Mining and Mineral Extraction Special Land Use Applications, 10.26.F, Township Board Review and Approval of Mining and Mineral Extraction Special Land Uses, 10.26.L, Operation Requirements, for Mining and Mineral Extraction Special Land Uses, and 10.26.M, Restoration Requirements, in particular.

    - a. The application and the zone change application, if any, together with the Planning Commission's recommendations, shall be forwarded to the Township Board for review and consideration.
    - b. The Township Board shall review and consider all technical reviews and all other factual material reviewed by the Planning Commission, all public hearing comments, and such additional information as it deems pertinent, including additional technical reviews of the type set forth in this Section.
      - i. If the application is approved or approved with conditions, a special land use permit will be issued to conduct operations. The permit shall incorporate by reference, and operations shall be conducted in conformance with:
        - (i) The Operations and Restoration Plan for the permit as approved by the Highland Township Board;
        - (ii) Any conditions attached thereto by the Township Board; and
        - (iii) The terms and conditions of any other applicable laws, the ordinances of the Township of Highland, and any other applicable regulations.

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The permit shall not be valid until it has been signed by the Township Supervisor and the Township Clerk. The Supervisor and Clerk shall not sign the permit until they have determined that:

- i) All application review costs have been paid;
- ii) All required sureties have been deposited;
- iii) All permit signatures required pursuant to Sections 10.26.J.6 and 10.26.J.7 have been obtained; and
- iv) All other conditions which are required to be fulfilled prior to commencement of operations have been fulfilled.

The Operations and Restoration Plan and any conditions shall become an integral part of this ordinance and all mining activities and subsequent use of the land shall conform thereto. No change in the terms of the Operations and Restorations Plan or the conditions attached by the Township Board thereto or to the persons named as Applicants shall be made except by the issuance of an amended special land use permit pursuant to the same procedures and standards set forth herein for issuance of the initial special land use permit.

- c. No application for a special land use permit which has been denied by the Township Board shall be resubmitted until the expiration of one (1) year from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions, sufficient to justify reconsideration by the Township Board. Each reapplication will be treated as a new application.

E. *Time limit and renewal of Mining and Mineral Extraction Special Land Use permit.*

- 1. Mining and mineral extraction special land use permits shall be issued for a period which is not less than twelve (12) months and which is not longer than one hundred and twenty (120) months.
- 2. Mining and mineral extraction special land use permits may be renewable upon submission and approval of an application for renewal. In order for an application for renewal to be approved it shall: 1) meet all the requirements set forth for initial applications, and 2) contain satisfactory evidence of compliance with the requirements of this ordinance and any conditions of approval applicable to the permit for which renewal is sought. Evidence of compliance shall be obtained pursuant to the provisions of Section 10.26.G, Special Land Use Permits Compliance Reports, with all costs for determining compliance being paid by those persons, firms and/or corporations designated to bear such costs pursuant to Section 10.26.G.
- 3. Applications for renewal of mining and mineral extraction special land use permits shall be submitted not more than six (6) months prior to expiration of the permit for which renewal is sought.

F. *Township Board review and approval of Mining and Mineral Extraction Special Land Uses.*

- b. *General standards for approval.* The Township Board shall approve the establishment or enlargement of a mining activity as a special land use only after it has determined, based on the facts submitted by the Applicants or otherwise available, that no areas directly or indirectly affected by the proposed mining and related activities will suffer any very serious consequences as a result of the proposed land use. The seriousness of consequences shall also be weighed in relationship to the scarcity of and the public need for the material to be mined. In making such a determination, the Township Board shall make specific, separate findings as to each of the following aspects of the proposed mining operation:
  - a. *Off-site impacts.*
    - i. There will be no very serious impairment to the safety of motorists as a result of increased vehicular congestion, roadway deterioration or debris thrown from trucks, and/or the mixture of slower truck with faster automobile traffic, or any other cause. In making such a finding,

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consideration shall be given to existing and future traffic volumes, thoroughfare geometrics, topographic and other pertinent conditions.

- ii. Existing roadways are adequately improved to carry traffic which will result, or there are funds available to make necessary improvements.
  - iii. There will be no very serious impairment to the safety of school children riding school buses or walking to school as a result of increased vehicular congestion, roadway deterioration and debris thrown from trucks, and/or the mixture of slower truck with faster automobile traffic, or any other cause. In making such a finding, consideration shall be given to existing and future populations of school children.
  - iv. There will be no very serious impairment to the quiet enjoyment of properties due to noise from truck traffic generated by the mining site. In making such a finding, consideration shall be given to the nature of existing and future development.
  - v. There will be no very serious impairment to the quiet enjoyment of properties due to dust and exhaust from truck traffic generated by the mining site. In making such a finding, consideration shall be given to the nature of existing and future development.
  - vi. There will be no very serious impairment to the general level of air quality due to dust, exhaust or other emissions from off-site hauling of mined materials. In making such a finding, consideration shall be given to the equipment and methods used to minimize such impacts.
- c. *On-site impacts.*
- i. There will be no very serious impairment to the quiet enjoyment of properties due to noise from the mining or processing of materials on the site. In making such a finding, consideration shall be given to the nature of existing and future development.
  - ii. There will be no very serious impairment to the quiet enjoyment of properties due to dust, exhaust or other emissions from on site extraction, moving or processing of mined materials. In making such a finding, consideration shall be given to the nature of existing and future development.
  - iii. There will be no contamination of groundwater from the mining operations.
  - iv. There will be no very serious draw down of groundwater levels or alteration of the direction or flow rate of aquifers.
  - v. There will be no very serious negative aesthetic impact from open pits, processing structures, stockpiles of mined material, reuse piles or other similar facilities.
  - vi. Potential attractive nuisance or other dangers associated with mining operations will be minimized by appropriate safety precautions.
  - vii. There will be no very serious impairment to the general level of air quality due to dust, exhaust or other emissions from on site extraction, moving or processing of mined materials.
- d. *Mid- and long-range planning considerations.*
- i. The use of land after reclamation will be compatible with the existing and planned development of surrounding areas.
  - ii. There will be no very serious loss of agricultural land and/or alternate development opportunities.

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- iii. Other lands within the Township will not be blighted by the mining operations or associated activities.
  - e. *Assurances of compliance.*
    - i. The Applicants have provided adequate financial assurances that reclamation will occur as approved and on schedule.
    - ii. The Applicants have provided adequate financial resources to pay all costs of Township monitoring of compliance.
    - iii. The Applicants have provided adequate financial and contractual assurances that hauling will comply with approved time schedules and routes.
    - iv. The Applicants have provided all other assurances necessary for the Township to determine that there will be compliance with all requirements of this ordinance.
  - f. *Scarcity and need for material to be mined.* Available supplies of the material to be mined from existing sources other than the proposed mining site and from unidentified, but reasonably anticipated other sites, do not substantially exceed reasonably foreseeable public needs. In evaluating available supplies and public needs, consideration shall be given to all supplies and all needs, whether generated inside or outside of the Township, which are likely to affect the market area which might be served by the site for which special use approval is sought.
  - g. *Size, duration and location relationships.* In determining whether or not the general standards set forth in Section 10.26.F, Township Board Review and Approval of Mining and Mineral Extraction Special Land Use, above are met, the Township Board shall consider the following factors in relation to each other: 1) the size of the proposed operation, 2) the location of the proposed operation (including haul routes) in relation to residential land and state trunk line highways, and 3) the anticipated duration of the proposed operation. In general, the Township Board shall not approve 100 acre or larger operations of anticipated ten (10) year or longer duration when proposed for locations with haul routes from the operation to a state trunk line highway in excess of one (1) mile through or adjacent to areas planned or developed for residential use. The Township Board may approve such operations, provided it finds that there are specific factual circumstances which mitigate the impacts of the operation and/or which indicate that the material to be extracted is scarce in proportion to the need for said material. For the purpose of this subsection, 100 acre or larger operations shall be operations which have a 100 acre or larger area in which mining and related operations could take place in accordance with the provisions of Section 10.26.L.2.b.
  - h. *Scarcity of and need for material to be mined.* In determining whether or not the general standards set forth in Section 10.26.F.1 above are met, the Township Board shall consider the scarcity of and public need for the material to be mined in Highland Township and the larger regional and national community of which the Township is a part. Scarcity and public need consideration shall be weighed in relation to size, location and duration considerations.
  - i. *Cumulative impact of existing and proposed operation.* In determining whether or not the general standards set forth in Section 10.26.F, above, are met, the Township Board shall consider the cumulative impact of existing and proposed operations. Special land use approval shall not be granted if the Board is unable to find that no very serious consequences will result from the cumulative impact of a proposed operation and one or more existing operations.
  - j. *Complete application and compliance with operation and restoration requirements.* The Township Board shall approve the establishment or enlargement of a mining activity as a special land use only after it has examined the application for a special land use permit and found that it conforms with the requirements of Section 10.26.F, and in particular that the Operations and

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Restoration Plan provides for operations and restoration in accordance with the standards of Section 10.26.L, Operation Requirements For Mining and Mineral Extraction Special Land Use, and Section 10.26.M, Restoration Requirements.

G. *Special land use permit compliance reports by Zoning Administrator.*

1. To ensure compliance with the provisions of this ordinance including any conditions established pursuant to special land use approval, the Zoning Administrator shall conduct not less than one (1) inspection of each mining and quarrying operation every six (6) months. Employees and agents of the Township of Highland shall be permitted to come upon the lands subject to a mining and quarrying special use permit for the purpose of inspecting, monitoring and/or administering this Ordinance and other ordinances and lawful regulations of the Township of Highland.
2. At least one (1) such inspection shall be completed and reported to the Township Board thirty (30) days prior to the date on which the subject special land use permit expires.
3. The Zoning Administrator shall retain the assistance of planners, engineers and any other professionals necessary to evaluate compliance with this ordinance.
4. The cost of all compliance inspections shall be paid by the Applicants and such other persons, firms or corporations who have been made subject to liability pursuant to licensing and/or other Township regulations. Each such person, firm or corporation shall be jointly and severally responsible for the full cost of compliance inspections.

A Compliance Inspection Reserve Fund which is controlled by the Township shall be established for each special land use which is approved pursuant to this Section. The fund shall be maintained by monthly deposits made by the persons, firms and corporations responsible for paying the costs of compliance inspections. The deposits shall be equal to \$500.00 per month or six (6) cents for each cubic yard of mineral removed from the subject property during the month, whichever is greater. At the end of each calendar year, and as of the date of termination in the final year of operations, an independent certified public accountant satisfactory to the Township shall certify to the Township the amount of materials removed from the subject land during the previous year, or during such portion of the year until the date of termination, as applicable.

After thirty-six (36) monthly deposits have been made to a Compliance Inspection Reserve Fund, and so long as the balance in the fund exceeds the larger of either \$18,000.00 or the total costs of all compliance inspections made during the most recent thirty-six (36) months, then deposits to the fund may be suspended until the balance in the fund falls below the larger of either \$18,000.00 or the total cost of all compliance inspections made during the most recent thirty-six (36) months.

Should the Compliance Inspection Reserve Fund be at any time insufficient to cover the full cost of inspections, the persons, firms and corporations responsible for paying the costs of compliance inspections shall be billed directly for the difference. Failure to pay such charges within thirty (30) days of billing shall be a violation of this ordinance.

In individual circumstances, the Township Board may specify lower or higher monthly deposits and/or a lower or higher minimum Compliance Inspection Reserve Fund balance upon a finding that such lower or higher deposits and/or balances will be adequate or necessary to cover the costs of the compliance inspections in the particular circumstance.

H. *Notice of violations, correction of violations, revocation of Special Land Use Permit, and lien against property.*

1. Should the Zoning Administrator determine that a probable violation of the provisions of this Section exists, a written notice of the probable violation and the pertinent facts relating thereto shall be served on all Applicants, all Lien holder and any other persons, firms and/or corporations who have been made subject to liability pursuant to licensing and/or other Township regulations. Said persons, firms

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and/or corporations and each Operator shall have thirty (30) days to file a response to the notice and to provide the Zoning Administrator with facts and information demonstrating compliance. Should such facts and information not be provided within thirty (30) days, or should the Zoning Administrator determine that the facts and information filed fail to demonstrate compliance, the Zoning Administrator shall serve a second notice. The persons, firms and/or corporations upon whom notice is served shall have thirty (30) days to file a response to the second notice and to provide the Zoning Administrator with additional facts and information demonstrating compliance. Should a satisfactory response not be provided to the second notice, the Zoning Administrator shall file a notice of probable violation with the Township Board.

2. Following the Board's receipt of the notice of probable violation, the Board shall schedule a public hearing for the purpose of hearing comments pertaining to the probable violation. The hearing shall be notice as required by Michigan law for special land use review, provided that notice shall be provided to all Applicants, to all Lien holder and to person, firm and/or corporation who has signed the special land use permit pursuant to Section 10.26.J.7, and on any other persons, firms and/or corporations who have been made subject to liability pursuant to licensing and/or other Township regulations.
3. Following the public hearing, the Township Board shall determine if the subject use has been operated in violation of the terms of this ordinance including any conditions established pursuant to special land use approval.
4. Should the Board determine that the subject use has been operated in violation of the terms of this ordinance, including any conditions established pursuant to special land use approval, the Board shall implement such remedies as are appropriate to the circumstances. The remedies which the Board may implement shall include, but shall not be limited to any one or more of the following:
  - a. Order that the operation and the property be brought into compliance.
  - b. Order the restoration of all areas disturbed by mining and quarrying operations in accordance with the approved restoration plan.
  - c. Revoke the special land use permit for mining and quarrying operations.
  - d. Revoke all Highland Township mining and quarrying licenses held by all operators who are licensed to conduct operations on the subject site.
  - e. Order such remedial actions as the Board may determine necessary to correct environmental or other on-site and/or off-site damage which may have resulted from operation of the subject use in violation of the requirements of this Ordinance, including the conditions of the applicable special land use permit.
  - f. Take such other actions as the Board may determine are appropriate to the circumstances, but not including the actions provided for in Section 10.26.H.7. Such actions shall be undertaken only after a second public hearing pursuant to Section 10.26.H.6, below.
5. Pursuant to the implementation of appropriate remedies, the Board may establish such specifications for compliance as are appropriate. The Board may direct the Zoning Administrator to monitor compliance with actions ordered by the Board and report to the Board on such actions.
6. Should the Zoning Administrator report that actions to correct violations are not proceeding in accordance with specifications established pursuant to Section 10.26.H.5, the Board shall schedule a public hearing with notice as provided by Michigan law for special land use approval. Subsequent to the public hearing, the Board shall determine whether actions to correct the violation have been carried out in accordance with the Board's specifications.
7. Should the Board determine that any of the specified corrective actions have not been taken, the Board shall have the right to enter on the property for the purpose of restoring the property in

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accordance with the approved Restoration Plan, and/or to take such remedial action which it deems appropriate to correct environmental or other damage which may have resulted from operation of the subject use in violation of the requirements of this ordinance, including the conditions of the applicable special land use permit, and/or to take such other actions as the Board may determine are appropriate. The cost of any such actions shall be charged against the surety deposited pursuant to Section 10.26.I, Surety Requirements, and any other applicable surety deposited pursuant to licensing or other Township regulations. In the event that the surety deposits and other resources of the Applicants available to the Township are, in the opinion of the representatives of the Township, insufficient to cover such costs, the Township shall be entitled to recover said deficiency out of the land, and, to effectuate said right, the Township shall be entitled under such circumstances to exercise all of the rights of a first lien holder whose lien is in default, and shall be entitled to exercise all remedies available to such a first lien holder under the laws of the State of Michigan, including, but not limited to, the right to foreclose said lien and the right to obtain appointment of a receiver for any purpose.

8. In the event that the value of the property is insufficient to cover the balance of the costs, liability shall fall jointly and severally upon the Applicants, non-applicant operators on the subject site and on all other persons, firms and/or corporations who have been made subject to liability pursuant to licensing and/or other Township regulations. Applicants on whom liability shall fall shall include Principals, Operators and others as defined in Section 10.26.C.2.a through Section 10.26.C.2.d and as identified on the Special Land Use Permit. Said liability shall fall on said Applicants based on their being named in the applicable Special Land Use Permit and those so named shall not escape liability even if they no longer meet the definition of Principals, Operators or others with an interest in the land pursuant to Section 10.26.C.2.a through Section 10.26.C.2.d. If a Special Land Use Permit has been amended pursuant to the provisions of Section 10.26.D, Mining and Mineral Extraction Special Land Use Application Procedures, so that one or more entities originally named as Applicants are no longer named as Applicants, then those that once were named as Applicants, but are no longer named as Applicants shall not be liable to cover the balance of the costs in the event that the value of the property is insufficient to cover the balance of the costs. Non-applicant operators on whom liability shall fall shall include all operators licensed by Highland Township to conduct operations at the subject site.

I. *Surety requirements.*

1. So as to assure faithful restoration, the Applicants shall deposit with the Township a surety bond which is in form and substance satisfactory to the Township Board. No less than twenty-five percent (25%) of the total bond shall be in the form of cash or an irrevocable and unconditional letter of credit issued by a banking or savings and loan institution satisfactory to the Township Board making the Township the beneficiary thereof. With the approval of the Township Board, up to seventy-five percent (75%) of the bond may be in the form of a corporate surety bond.
2. The cash or irrevocable letter of credit plus all other components of the surety bond shall remain in force, and in the possession of the Township until the parcel or parcels have been reclaimed, and all equipment, machinery, materials, buildings and other improvements removed as required by the terms of the ordinance.
3. In the establishment of the amount of the surety bond, the Township Board shall take into account the size and scope of the proposed operation, the current and projected costs of reclamation in the event of default by those responsible for restoration at such time as it is likely to be most costly, and other such conditions and factors as might be relevant in determining a sum reasonable in light of all the facts and circumstances. In establishing the amount of the deposit, the board shall consider, but not be bound by, the Applicants' estimate of the amount that will be required, provided such estimate is certified as accurate by an officer of each Applicant. In determining the amount of the Bond the Township Board may consider, but shall not be bound by an independent appraisal of the actual cost of restoration. Such an appraisal shall be prepared by appropriately qualified independent professionals



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selected by the Township Board. Costs for obtaining such an independent appraisal shall be charged to the Applicants. Final determination of the amount of the Bond shall be made by the Township Board, but unless good cause be shown therefore, the deposit shall be in an amount not less than forty thousand dollars (\$40,000) for the first twenty (20) acres or portion thereof, and a minimum of one thousand dollars (\$1,000) for each acre over twenty acres. The Township Board, in considering any application to amend, modify or renew the special land use permit, may, in its discretion, increase or decrease the amount of the surety bond, based upon increased costs, new information or partial reclamation.

4. All cash deposited as surety shall be deposited in an interest bearing account in control of the Township at a bank or savings and loan institution satisfactory to the Township, provided that all sums on deposit shall be readily accessible to the Township in the event of need or default. Interest earned on any such deposit shall accrue in the account and shall be available for restoration and other purposes which may be charged against those liable for inspection, restoration and remediation costs pursuant to this Ordinance, with the balance, if any, returned to the Applicants upon compliance with all other provisions of this Ordinance.
5. The surety deposit shall be submitted by the Applicants prior to the issuance of the special land use permit.
6. Monies may be released to the Applicants in proportion to the work completed on the different restoration activities after an inspection report is filed by the Township Engineer and approved by the Board. Not more than eighty percent (80%) of the monies deposited shall be released until all work has been completed and subsequently inspected by the Township Engineer and approved by the Board. Upon completion of restoration and/or rendition in accordance with this ordinance to the satisfaction of the Township, any balance of such deposit together with any remaining interest thereon, shall be returned to the various Applicants in the proportions designated by the Applicants on the approved special land use permit.
7. The amount of the surety deposit shall be subject to an annual reevaluation of its adequacy to pay for all required restoration and rendition activities. The reevaluation of the surety deposit shall consider changes in the Consumers Price Index for the Detroit Metropolitan Area as published monthly by the U.S. Bureau of Labor Statistics for Hourly and Clerical Wage Earners plus other pertinent factors. Pursuant to reevaluation, the Township Board may increase or decrease the required surety deposit. If the Township Board increases the surety requirement, all Applicants, all Lien holders and all other persons, firms and/or corporations who have been made subject to liability pursuant to licensing and or other Township regulations shall be notified. Within ninety (90) days of said notification, the additional surety shall be deposited with the Township in a form acceptable to the Township. Failure to deposit the additional surety within ninety (90) days shall be deemed a violation of this ordinance. Action against said violation shall be taken pursuant to Section 10.26.H, Notice of Violation, Correction of Violation, Revocation of Special Land Use Permit and Lien Against Property.
8. The Township Board may, at its discretion, approve surety deposits for areas less than the total acreage for which a special land use permit is sought. However, at no time shall any excavation be undertaken unless and until sufficient surety deposit has been deposited to ensure that the restoration of the area to be disturbed conforms with all other requirements of this ordinance.
9. Insurance shall be a precondition to commencement of operations, and maintenance in full force and effect of insurance shall be a precondition to the right of continued operations. The Applicants shall provide binders for personal injury and property damage insurance for the project to be carried during all times which any reclamation is left to be done, and during all times any machinery and/or equipment remains on the site, or any structures, equipment or improvements to be removed remain on the site. This insurance shall be carried in an amount no less than one million (\$1,000,000.00) dollars for personal injury and damage to more than one person's property arising out of a single

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occurrence. This insurance shall cover injury or damage occurring upon the site of the operation, as well as upon injuries occurring upon adjoining property as the result of conditions or activities conducted upon the subject's property.

J. *Permit content.*

1. The name and address of each of the Applicants for the Special Land Use permit and each Lien holder with respect to the land subject to the lien.
2. The name, address and phone number of the person designated by each of the Applicants and each of the Lien holders as agent for all notice, correspondence and communication.
3. The legal description of the property to which the permit shall apply.
4. The period, for which the permit shall be valid, including its commencement date and expiration date.
5. A statement essentially corresponding to the following: "This permit is subject in general to this Section, Special Land Use Procedures and Standards for Mining and Quarrying and other applicable provisions of the Highland Township Zoning Ordinance under which this special land use permit was approved, that ordinance being the one in effect on, and in particular to the Operations and Restoration Plan approved pursuant to this permit and dated."
6. A statement essentially corresponding to the following: "This permit may be suspended or revoked in accordance with the procedures and notice requirements set forth in the Highland Township Zoning Ordinance, based upon a failure to comply with one or more of the applicable requirements, and/or the terms and conditions of this permit, or upon the grounds that the use constitutes a nuisance or danger to the public health, safety and/or welfare."
7. A statement to be endorsed by all Applicants and all Lien holders substantially in accordance with the following: "Each of the undersigned has read this permit and understands and agrees that all of the statements and contents of the Operation and Restoration Plan for the permit as approved by the Highland Township Board together with any conditions attached thereto by the Highland Township Board are incorporated herein by reference as a part of the terms and conditions hereof, together with the terms and conditions of any other applicable law, the ordinances of the Township of Highland, and any other applicable regulations. Each of the undersigned further acknowledges that employees and agents of the Township of Highland are permitted to come upon the lands at any reasonable time for the purpose of inspecting, monitoring and/or administering the ordinances and other lawful regulations of the Township of Highland, including those regulating mining and quarrying operations upon the land which is the subject of this permit. Each of the undersigned further acknowledges that this permit shall be recorded with the Oakland County Register of Deeds and shall constitute evidence of a first lien, prior in right to all other liens with respect to the lands subject to this permit, in favor of Highland Township for the purpose of securing the performance of the restoration obligations set forth in the Operation and Restoration Plan, it being understood that, in the event that the surety deposits and other resources of the Applicants available to the Township are, in the opinion of the representatives of the Township, insufficient to assure restoration of the land in accordance with the Operation and Restoration Plan, the Township shall be entitled to recover said deficiency out of the land, and, to effectuate said right, the Township shall be entitled under such circumstances to exercise all of the rights of a first lien holder whose lien is in default, and shall be entitled to exercise all remedies available to such a first lien holder under the laws of the State of Michigan, including, but not limited to, the right to foreclose said lien and any purpose, and the Township shall be authorized to engage persons on behalf of the Applicants to enter onto said land and to perform such restoration and other actions as are appropriate to effectuate the provisions of the Operations and Restoration Plan. Each of the undersigned also acknowledges that the first lien evidenced by this permit shall also be for the purpose of securing the performance such remedial action which the Township Board of Trustees may deem appropriate pursuant to Section 10.26.H.4 through Section 10.26.H.7 of the

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Highland Township Zoning Ordinance to correct environmental or other damage which may have resulted from operation of the subject use in violation of the requirements of this permit."

8. A statement to be countersigned by all Applicants corresponding substantially to the following: "The undersigned have read this permit and understand and agree to be fully liable both jointly and severally for the entire cost of restoring the land pursuant to the Restoration Plan for this permit as approved by the Highland Township Board, and also for the cost of such other actions which the Highland Township Board of Trustees may deem appropriate pursuant to Section 10.26.H.4 through Section 10.26.H.7 of the Highland Township Zoning Ordinance to correct environmental or other damage which may have resulted from operation of the subject use in violation of the requirements of this Section of the Highland Township Zoning Ordinance. However, the undersigned understand that the liability hereby accepted shall only be for restoration and other costs which exceed the sum of (i) the value of the surety deposits and other funds provided pursuant to Section 10.26.I, Surety Requirements, of the Highland Township Zoning Ordinance, plus (ii) the amount realized by the Township as a result of the sale of the land at foreclosure."
  9. A statement to be countersigned by all Applicants naming one person, firm or corporation as agent for all for the purpose of receiving notices required pursuant to this ordinance.
- K. *Maintenance of permit records.* The Township Clerk shall maintain a copy of each Special Land Use permit issued pursuant to the provisions of this Section. Along with each permit approved there shall also be maintained: 1) a complete copy of the approved Operations and Restoration Plan and any conditions imposed by the Township Board pursuant to approval of the permit; and 2) a complete copy of the entire Highland Township Zoning Ordinance under which the permit was approved. The Clerk shall certify the Operations and Restoration Plan along with any conditions attached thereto, and the copy of the Zoning Ordinance as the documents applicable to the particular special land use permit with which they are maintained. The Clerk shall record the permit signed by the Township Supervisor and Clerk and by all Applicants as required by Section 10.26.J.7, Section 10.26.J.8 and Section 10.26.J.9 of this Ordinance. The recorded permit shall constitute evidence of a first lien, prior in right to all other liens with respect to the lands subject to this permit, in favor of Highland Township for the purpose of securing the performance of the restoration and other obligations pursuant to this ordinance.
- L. *Operation requirements for Mining and Mineral Extraction Special Land Uses.* Removal operations must be conducted in a way which is compatible with existing and proposed development and in a way which protects the natural environment and minimizes negative impacts on surrounding land and development. Operation requirements as set forth in this section shall apply.
1. *Conformance to Approved Operations and Restoration Plan.* Operations shall be in accordance with an approved detailed plan as submitted pursuant to Section 10.26.C.2.q.
  2. *Arrangement of operations.*
    - a. During any given phase of the operation, the entire site subject to the special land use permit shall be divided into the following seven types of areas:
      - 1) Buffer areas;
      - 2) Preservation areas;
      - 3) Future excavation and operations areas;
      - 4) Excavation-and-operations-in-progress areas;
      - 5) Interim restoration-in-progress areas and;
      - 6) Interim restored areas;
      - 7) Final restored areas.

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Said areas shall be defined and regulated as follows:

- i. *Buffer areas.* Buffer areas shall be located on the subject property. Buffer areas are required by this ordinance to be incorporated in the approved Operations and Restoration Plan. During the period for which the special land use permit is valid, buffer areas shall not be disturbed by mining of materials or on-site operations appurtenant to mining (such as washing, grading, sorting, crushing, grinding, cutting and stockpiling), except that on-site roadways providing necessary access to various other areas shall be permitted to pass through buffer areas. Buffer areas may incorporate sight barriers required pursuant to Section 12.04, Screening Between Land Uses.
- ii. *Preservation areas.* Preservation areas shall be located on the subject property. Preservation areas are not required per se by this ordinance, but may be established by the approved Operations and Restoration Plan for the convenience of the Applicants or as a method of conforming to one or more requirements which are specified in this ordinance. During the period for which the special land use permit is valid, preservation areas shall not be disturbed by mining of materials or on-site operations appurtenant to mining (such as washing, grading, sorting, crushing, grinding, cutting and stockpiling), except that on-site roadways may be permitted. Preservation areas may incorporate sight barriers required pursuant to Section 12.04, Screening Between Land Uses.
- iii. *Future excavation and operations areas.* Future excavation and operations areas shall be located within the operating limits as designated in the approved Operations and Restoration plan. No mining of materials or on-site operations appurtenant to mining (such as washing, grading, sorting, crushing, grinding, cutting and stockpiling) shall take place within the future excavation and operations areas, except that on-site roadways may be permitted.
- iv. *Excavation-and-operations-in progress areas.* Excavation-and-operations-in- progress areas shall be located within the operating limits as designated in the approved Operations and Restoration plan. At any one point in time, the size of all excavation-and-operations-in-progress areas shall not exceed the lesser of 150 acres or forty (40) percent of the property which is the subject of the special land use permit. At any one point in time, all mining of materials and on-site operations appurtenant to mining (such as washing, grading, sorting, crushing, grinding, cutting and stockpiling) shall take place within the excavation-and-operations-in-progress area applicable for that point in time, except that on-site roadways providing necessary access to various other areas may be permitted outside excavation-and- operations-in-progress areas.
- v. *Interim restoration-in-progress areas.* Interim restoration-in-progress areas shall be located within the operating limits as designated in the approved Operations and Restoration plan. The total acreage of all interim restoration-in-progress areas plus all excavation-and-operation-in-progress areas shall not exceed the lesser of 225 acres or sixty (60) percent of the property which is the subject of the special use permit. Interim restoration-in-progress areas shall be areas which have previously been mined and in which restorative grading and vegetation planting is underway. No mining or related operations shall take place in any area while it is classified as an interim restoration-in-progress area. An area which has been classified as an interim restoration-in-progress area may be reclassified as an excavation-and-operations-in-progress area pursuant to the limitations of Section 10.26.L.2.a.iv above.
- vi. *Interim restored areas.* Interim restored areas are areas which have had their topography, soils and vegetation restored in accordance with the interim provisions of the approved Operations and Restoration Plan. Interim restored areas need not be improved with

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buildings, permanent roadways, other permanent structures or with related landscaping which may be required for final restoration by the Operations and Restoration Plan. No mining or related operations shall take place in an area while it is classified as an interim restored area. An area which has been classified as an interim restored area may be reclassified as an excavation-and-operations-in-progress area pursuant to the limitations of Section 10.26.L.2.a.iv above.

- b. Minimum Setbacks for Future Excavation and Operations Areas, Excavation-and-Operations-in-Progress Areas, Interim Restoration-in-Progress areas and Interim Restored Areas:
    - i. Future excavation and operations areas, excavation-and-operations-in-progress areas, interim restoration-in-progress areas and interim restored areas shall be setback from the outer boundary of the subject property a minimum of 50 feet, except that a larger setback may be required by the Township Board in circumstances where a greater setback is deemed necessary to adequately protect adjacent land areas. Grading and excavation activities may take place up to the property line beginning six (6) months before the completion of excavation in an area when necessary to implement an approved restoration plan.
    - ii. Excavation, washing and stockpiling of extracted material shall not be conducted closer than three hundred (300) feet to the margin of any stream or waterway without written permission from the Michigan Water Resources Commission.
  - c. Frontage and Access. Each such tract of land shall have a minimum frontage on a major or secondary thoroughfare of at least two hundred fifty (250) feet, except that the Township Board may approve a tract that has lesser frontage if it is fronted by an active mining or quarrying operation, whose timetable for development would coincide with the proposed operation and written permission for access to a major thoroughfare is secured from any owner in fee or lease holder.
  - d. Elevation of Processing Facilities. All processing facilities shall be located within the excavation area at an elevation as much lower than the general level of the surrounding terrain as is reasonably practicable in order to reduce the visual, noise and dust impacts of the plant.
  - d. Sight Barriers. Sight barriers shall be provided in accordance with the provisions of Section 12.04, Screening Between Land Uses.
3. *Operating procedures.*
- a. *General Operating Standards.* All activities, equipment, roadways and material storage areas shall be treated, covered, muffled or otherwise controlled to ensure compliance with the following performance standards:
    - i. Operations will be conducted in a way to minimize negative impacts on adjacent areas.
    - ii. Operations will be conducted in a way to minimize negative impact groundwater, watercourses, water bodies and wetlands.
    - iii. Operations will be conducted in a way to minimize dust and dirt.
4. Equipment used shall be constructed, maintained and operated in such a manner as to eliminate insofar as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
- a. *Hours of Operation.* Excavation, washing and stockpiling of extracted material and all truck movements associated with the hauling of extracted material shall be restricted to weekdays

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between the hours of 7:00 A.M. and 7:00 P.M. except in cases of a public emergency declared by the Township Board.

- b. *Truck Routes.* Truck traffic associated with the use shall be prohibited on all streets except those for which it is specifically approved by the Township Board pursuant to special land use approval. Streets shall be approved for truck traffic so as to minimize the impact of such traffic on residential and related uses and activities.
- c. *Enclosure and Spraying of Trucks.* Any and all trucks hauling any extracted materials to or from the site on rights-of-way which are subject to the jurisdiction of Highland Township shall, to the extent required by the Township Board after due consideration, be enclosed or covered to prevent materials from blowing or falling from trucks, and shall be sprayed to prevent gravel from falling or being thrown from the wheels and under carriage of trucks.
- d. *Treatment of Private Roads to Minimize Dust.* All private access roads shall be treated so as to create dust-free surface for a distance of three hundred (300) feet from any public access road. Arrangements shall also be made to minimize dust on public access routes traveled in the Township.
- e. *Processing of Material Extracted Off-Site Prohibited.* No natural resource extracted outside the limits of the approved special land use area shall be brought in for washing, grading, or further processing, except in the event of a public emergency requiring the use of said natural resource, as declared by the Township Board.
- f. *Fencing.* All mining and mineral extraction sites shall be fenced prior to the commencement of operations and prior to the placement on the site of machinery or buildings. The fencing shall completely surround the borders of the subject property, provided, however, for good cause shown in relation to the protection of public safety and in view of the operations conducted, the Township Board may, in its discretion, modify the location of fencing. The minimum specifications for the fencing shall be as follows: a six (6) foot high farm-type fence of Number 9 gauge top wire, Number 12 gauge bottom wire, Number 14 gauge stays and intermediate wires and spacing of six (6) inches vertically by twelve (12) inches horizontally; all stays shall be of fourteen (14) gauge wire; support posts shall be spaced on sixteen (16) foot centers or less.
- g. *Stockpiling of Topsoil.* Sufficient topsoil shall be stockpiled on the site so that the all areas which require vegetative restoration may be recovered with a minimum of six (6) inches of topsoil when excavating operations are completed. The topsoil replacement shall be made immediately following the termination of excavating operations. All replaced topsoil shall immediately be planted with grass or other plant material acceptable to the Board so as to prevent erosion of slopes. Those lands under water or in approved beach areas are excluded from top soil replacement and planting requirements.
- h. *Explosives.* Explosives shall be used in accordance with the "Regulations for Storage and Handling of Explosives," as published by the Michigan State Police, Fire Marshal Division, East Lansing, Michigan.
- i. *Slopes at the End of Each Working Day.* At the end of each working day, slopes of areas being excavated shall not exceed a ratio of one (1) foot of rise for each two (2) feet of run.
- j. *Applicability of General performance Standards.* Mining and quarrying activities shall be conducted in conformance with the provisions of Section 8.06, Environmental Performance Standards, except where provisions of this section require higher standards.
- k. *Applicability of Operations and Restoration Plan to Applicant and Independent Haulers.* Any and all haulers of mine or quarry material, including those who are not mine or quarry operators,

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shall be subject to the requirements of the Special Use Permit, including but not limited to the Operations and Restoration Plan.

- I. *License Requirements.* This ordinance requires and the Operations and Restoration Plan shall provide that no person, firm or corporation shall operate a mining or quarrying activity without first obtaining a license from Highland Township pursuant to such ordinances as may from time to time be enacted by the Township. This Ordinance further requires that no person, firm or corporation shall haul from a mine or quarry site more than ten loads in any thirty (30) day period nor more than twenty (20) loads in any 365 day period without first obtaining a license from Highland Township pursuant to such ordinances as may from time to time be enacted by the Township.
- M. *Restoration requirements.* Restoration shall be completed so as to leave the area compatible with existing and proposed development and so as to protect the natural environment and minimize negative impacts on surrounding land and development. Restoration requirements as set forth in this section shall apply.
1. *Conformance to Approved Operations and Restoration Plan.* Restoration shall be in accordance with an approved detailed Operations and Restoration Plan as submitted pursuant to Section 10.26.C.2.n.
  2. *Restoration Schedule.*
    - a. All excavation-and-operations-in-progress areas shall be restored to interim restoration areas within twelve (12) months after the cessation of mining and quarrying operations therein. For the purpose of this subsection, operations shall be deemed to have ceased for twelve (12) months if no more than one thousand (1,000) cubic yards of material has been removed for a twelve (12) month period.
    - b. All interim restoration areas shall be fully restored in accordance with the final restoration provisions of the approved Operations and Restoration Plan within thirty six (36) months of the cessation of operations in the entire parcel approved as a mining and quarrying special land use.
    - c. Deviations from the timetable of the restoration plan and the uses to which the proposed areas will be put shall be permitted only upon approval of an amended special land use permit.
  3. *Restoration Standards.*
    - a. All excavation shall be either to a water-producing depth or shall be graded or backfilled to ensure that the excavated area will not retain or collect stagnant water. For the purposes of this subsection, a water-producing depth shall be defined as not less than ten (10) feet below the average summer level of water in the excavation.
    - b. In the event filling of the mined area is necessary in the course of reclamation, the fill material shall not consist of or contain any organic waste, hazardous materials, toxic materials, radioactive materials, agricultural waste, industrial waste, sludge or sewage residues, whether or not compounded, mixed, combined, bound or contained within any other material through any chemical or physical process or a combination thereof, or in any other fashion, and, moreover, such fill material shall not contain any machinery or equipment of parts thereof, or any other material which will, or is likely to, impair or harm the air, water and natural resources, and public trust therein, and/or the public health and safety. Only material which will settle firmly without pockets shall be used.
    - c. In general, grades of areas which are not permanently submerged will be gently rolling to minimize soil erosion and shall be blended into existing grades in a harmonious manner. No unsubmerged grade shall exceed one (1) foot vertical to four (4) feet horizontal.

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- d. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, roads or other structures. The depth of topsoil over the entire site shall not be less than six (6) inches.
  - e. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
  - f. Within twelve (12) months of cessation of mining operations, all plant structures, buildings, stockpiles and equipment shall be removed, provided, however, that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which the property is located may be retained.
- N. *Districts where Mining and Mineral Extraction may be approved as Special Land Uses Pursuant to this Section.*
- 1. Subject to the provisions of this Section, mining and quarrying may be approved as a special land use in any Highland Township zoning districts.

### **Sec. 10.27. Vehicle dealerships and rental agencies.**

The following regulations shall apply:

- A. The site plan must include area designated for the following uses: a) display and storage of vehicles held in inventory, b) parking of customer and employee vehicles, c) parking of dealership owned vehicles not held in inventory such as courtesy vans, tow trucks and parts trucks, and d) staging and storage of vehicles waiting for repair and heavy equipment.
- B. Areas designated for display and storage of vehicles held in inventory may be allowed in all required yards except as follows:
  - 1. No display or storage of vehicles is permitted in the required greenbelt as provided in Section 12.06.
  - 2. No display or storage of vehicles is permitted within 20 feet of a parcel zoned or used residentially.
- C. Areas designated for staging or storage of vehicles waiting for repair and heavy equipment are not permitted in required yards. Any area designated for staging or storage of vehicles waiting for repair and heavy equipment shall be screened in accordance with Section 12.04, Screening between Land Uses.

### **Sec. 10.28. Heavy industrial manufacturing.**

The following regulations shall apply.

- A. Such uses shall be located only on a paved major thoroughfare.
- B. The lot size shall be a minimum of five (5) acres.
- C. Such uses shall be located at least two hundred (200) feet from any residential district.
- D. A minimum setback of one hundred (100) feet shall be established along any lot line adjacent to a parcel zoned or used for a less intense use. Such setback shall be maintained with a required landscaped buffer in accordance with Section 12.04, Screening between Land Uses.
- E. Special Use applications for heavy industrial manufacturing uses shall be supplemented with the following:



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- a) Material data sheets for materials used or stored on site;
  - b) A copy of any environmental reports prepared in conjunction with permit applications for state or federal agencies;
  - c) Pollution prevention plans and spill containment plans;
  - d) Emergency response plans; and
  - e) Other information the Planning Commission may request to refine the community's understanding of potential hazards and mitigation plans related to the proposed use.

### **Sec. 10.29. Pet care facility.**

The following regulations shall apply:

- A. Outdoor exercise areas shall not be located on a property that abuts a residentially zoned property except where a 100-foot buffer zone may be developed and maintained on the property.
- B. All animals shall be kept either within completely enclosed structures or under the direct control of the owner, kennel operator or staff at all times, and shall be kept indoors between the hours of 7:00 p.m. and 7:00 a.m.
- C. Any outdoor exercise/training area shall be enclosed with a solid wood fence at least six (6) feet high, with provisions such as two-stage entry gates or entry only through the enclosed facility so as to deter the escape of animals.
- D. For facilities adjacent to residentially zoned properties, the hours for client pickup/dropoff of animals shall be restricted to 7:00 a.m. to 7:00 p.m.

( Ord. No. Z-005, § 5, 3-11-2015 )

### **Sec. 10.30. Self-storage facilities in commercial zoning districts.**

The following regulations shall apply to the establishment of self-storage facilities in commercial zoning districts.

- A. For parcels zoned C-2, General Commercial Zoning District, self-storage facilities may be established provided the parcel is at least two hundred fifty (250) feet deep and exceeds thirty thousand (30,000) square feet in area subject to special approval. The site must be capable of providing area for a retail or office use along the road frontage, with space for structures, associated parking, drainage facilities, sewage disposal system and water supply and required landscape buffers.
- B. Self-storage facilities shall be set back from the right-of-way of a major thoroughfare a distance equal to the lot width measured parallel to the road frontage.
- C. The total signage for all uses on the parcel shall be restricted to that signage otherwise permitted in Section 14.2, Freestanding Signs. No additional signage will be permitted.

( Ord. No. Z-010 , § 4, 10-11-2017 )

### **Sec. 10.31. Facilities for service contractors.**

The following regulations shall apply:

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- A. Parking/storage of fleet vehicles is limited to areas designated on the approved site plan. Such areas must be fully screened from adjacent public roads or residentially zoned parcels in accordance with Section 12.04.
  - B. Outdoor storage is limited to those areas designated on the approved site plan and shall comply with setbacks. The planning commission may require a structural cover (shed roof or hoop structure) for materials that are loose and blowing, or are chemically reactive to water or sunlight. No outdoor storage shall be approved for facilities adjacent to residentially zoned parcels.
  - C. Building orientation should be such so that there are no overhead doors facing adjacent residentially zoned parcels. The planning commission may allow a design exception where the applicant demonstrates an effective screen through landscaping, screen wall or solid fence and favorable topography.
  - D. No loud speaker or paging systems are allowed.

(Ord. No. Z-013, § 2, 10-9-2019)

### **Sec. 10.32. Vehicle inventory overflow lots.**

The following regulations shall apply:

- A. Hard surface paving shall be limited to the entry and primary circulation lanes. The majority of the lot shall be maintained as vegetated surface or gravel surface.
- B. No loud speaker, paging systems or key fob/vehicle horn shall be used to locate vehicles on the lot.
- C. The site lighting shall be designed in accordance with the Zoning Ordinance, Section 13.03, Freestanding Pole Lighting with additional considerations for neighboring residential properties. All poles shall be placed in the interior of the lot, with no perimeter poles. Pole height will be limited to twenty (20) feet, using only the number of poles necessary to achieve security and safety objectives during operation, with an average of five (5) foot candles over the site. The lighting system will be equipped with a control system and motion sensors such that ninety (90) percent of the fixtures would go dark after close of business, unless activated by movement detected by the motion sensors.
- D. An operations and maintenance program shall be submitted for review by the planning commission. Said program shall include an explanation of how and when vehicles will be moved to and from the site with a site circulation plan identifying area for loading and unloading vehicles, "housekeeping" practices such as mowing and weed removal schedules, and security provisions.
- E. Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m.

(Ord. No. Z-013, § 2, 10-9-2019)

### **Sec. 10.33. Utility scale solar farms.**

The following regulations shall apply:

- A. Eligible sites shall be a minimum of ten (10) acres and shall be located within four (4) miles of an existing or planned electrical substation.
- B. Solar panels shall be located or placed so that concentrated solar glare shall not be directed toward or onto adjoining properties or roadways at any time of the day.

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- C. The surface area beneath solar panels or arrays shall be continuously maintained and the pervious surface condition of such land area shall remain uncompacted so as to not impact surface water flow and infiltration.

(Ord. No. Z-013, § 2, 10-9-2019)

### **Sec. 10.34. Community living facility.**

The following regulation shall apply:

- A. The minimum site area shall be ten (10) acres.
- B. The site shall have direct access to a major thoroughfare or an approved private road designed for commercial traffic and subject to a maintenance agreement.
- C. Buildings shall be set back at least fifty (50) feet from any property zoned or used for single family residential use.
- D. The site shall be served by a public water supply, designed and operated in a manner consistent with Chapter 23 of the General Code of Ordinances, Charter Township of Highland.
- E. Parking shall be provided in conformance with Section 11.02.G, Schedule of required offstreet parking spaces. Additional parking shall be required for such ancillary uses as a clubhouse, fitness facility, common dining areas, separate laundry building, etc. to accommodate the anticipated staffing levels and parking for residents utilizing facilities.

( Ord. No. Z-014 , § 3, 6-12-2019)

## **ARTICLE 11. ACCESS MANAGEMENT, PARKING AND CIRCULATION**

### **Sec. 11.01. Intent.**

These regulations are intended to create and maintain off-street parking and loading that is adequate in size and sufficient in the number of parking spaces for a particular use prior to the issuance of a certificate of occupancy. These regulations are also intended to address safe vehicular and pedestrian access to and within sites. Shared parking within a development will be utilized along with parking lots that are properly designed to meet the range of parking needs and demands associated with the existing and future land uses within the Township.

### **Sec. 11.02. Off-street parking.**

- A. *General requirements.*
  - 1. Single family residential and duplex parking. Off-street parking spaces for single family detached units or duplexes on individual lots shall consist of a parking strip, driveway, garage or combination thereof, and shall be located on the premises they are intended to serve.
  - 2. Parking for all other uses. Parking areas for uses other than single-family detached units or duplexes on individual lots shall be approved and constructed as part of a site plan. Minor changes to the parking layout, as determined by the Zoning Administrator, shall require a submittal of a parking plan.
  - 3. Off-street parking shall be provided for a principal use erected, altered, or expanded after the effective date of this Ordinance. Required off-street parking shall be maintained so long as the principal use

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remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

4. No off-street parking which exists at the time this Ordinance becomes effective which is provided for the purpose of complying with provisions of this Ordinance shall thereafter be reduced below the requirements established by this Ordinance.
5. The requirements of this section are not intended to apply to farms and farming operations. Parking requirements associated with Farm Markets are included in Section 10.13, Farm Markets.
6. Within non-residential districts, off-street parking for continuous periods of more than twenty-four (24) hours shall be prohibited with the following exceptions:
  - a. Parking in conjunction with an automobile sales and service facility, major and minor automobile repair facility, and automobile towing service, as permitted and regulated by this Ordinance.
  - b. Automobiles and commercial vehicles owned and operated in conjunction with the principal use of the property.

B. *Parking location and setbacks.*

1. Parking spaces shall be provided either on the same lot, within lots under the same ownership or where a shared parking easement is provided on an adjacent lot within three hundred (300) feet of the building it is intended to serve, measured from the nearest public building entrance to the nearest parking space of the off-street parking lot.
2. Off street parking is allowed in all yards and must be setback a minimum of twenty five (25) feet from the ordinary high water mark and must be maintained.
3. Paved areas shall be ten (10) feet from any side or rear lot lines that abut an adjacent residentially zoned or used property and five (5) feet from any side or rear lot lines that abut an adjacent non-residentially zoned or used property. Paving setbacks between non-residentially zoned or used property may be waived by the Planning Commission for cross-access and joint parking with an approved joint parking easement agreement.

C. *Units and methods of measurement.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

1. *Floor area.* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the net floor area, as defined by this Ordinance.
2. *Employees.* For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
3. *Places of assembly.* In stadiums, sports arenas, auditoriums and other places of assembly, seating capacity shall be based upon the building code requirements currently in effect. In cases where a place of assembly has both fixed seats and open assembly areas, requirements shall be computed separately for each type and added together.

D. *Shared parking.*

1. The developed parking for adjacent parcels may be shared provided an approved joint parking easement agreement and the applicant(s) demonstrates that the peak usage will occur at different periods of the day. Each parcel must include adequate space to allow for development of the required parking.
2. Side or rear parking lot setbacks may be reduced or waived by the Planning Commission where a shared access driveway, connected parking lots, and/or internal service drives are provided.

E. *Flexibility in application.*

1. The Township recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards may result in development with inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and stormwater runoff and a waste of space which could be left as open space.
2. The Planning Commission may allow an applicant to defer development of some off-street parking spaces based upon a finding that such deferment will provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question. The site plan shall indicate an area for future development of "reserve parking", with a fully dimensioned layout. Where an area is set aside for reserve parking, it shall be easily developed, not devoted to a use other than open space, and shall be designed to accommodate attendant facilities such as maneuvering lanes and drainage.
3. Should the Zoning Administrator document that actual demand exceeds the developed parking capacity from time to time, the Zoning Administrator may direct the owner to construct some or all of the reserved parking as shown on the site plan. The owner shall agree to construct additional parking spaces within six (6) months of being informed of such request in writing by the Zoning Administrator as a condition of site plan approval.
4. The Zoning Administrator may require development of reserve parking spaces as a condition of land use approval for change of use of any site.
4. It is the intent of this Ordinance to minimize excessive areas of pavement which reduces aesthetic standards and contributes to high rates of storm water runoff. Exceeding the minimum parking space requirements by more than twenty percent (20%) shall only be allowed with approval by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.

F. *Fractional requirements.* When the number of required parking or loading spaces result in a fractional space, then the fraction shall be counted as one (1) additional space.

G. *Schedule of required off-street parking spaces.* The minimum number of off-street parking spaces shall be determined by the type of use in accordance with Table 11.1. For uses not specifically listed below, the required parking shall be in accordance with that of a similar use as determined by the Zoning Board of Appeals.

TABLE 11.1. SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES

<i>Residential</i>	
Single-family and two-family residential	2 spaces for each dwelling unit
Multiple-family residential	1 space per each efficiency dwelling unit 2 spaces per each dwelling unit
Bed and Breakfast	2 spaces for dwelling and 1 space for each double occupancy room
Mobile home park	2 spaces per each mobile home unit or site and 1 space for each 3 mobile homes for visitor parking
Skilled care nursing facility and home for the aged	1 space per each 3 beds or 2 rooms, whichever is less plus employee parking
Community living facility	1.5 spaces for each dwelling unit plus spaces as required for ancillary uses
<i>Institutional</i>	

Elementary and middle schools	1 space for each 1 teacher, employee, or administrator in addition to the requirements for separate auditorium or stadium seating
Senior high schools, colleges and commercial schools	1 space for each 1 teacher, employee, or administrator and 1 for each 10 students, in addition to the requirements for auditorium or stadium
Social clubs, fraternal organizations and other similar uses	1 space for each 3 persons allowed within the maximum occupancy load as established by the fire or building codes
Places of Assembly and Auditoriums	1 space for each 3 seats or 6 feet of bench seating also see Section 11.02.C.3, Places of Assembly
Child and adult care centers	2 spaces plus 1 additional space for each 8 children of licensed authorized capacity
Group and family day care	1 space per 4 clients plus employee parking
<i>Office</i>	
Banks, credit union of savings and loans, including drive-through facilities	1 space for each 200 square feet of gross floor area, plus 2 spaces for each ATM. Drive-up windows shall be provided 4 stacking spaces for each window
Office or professional buildings except medical offices	1 space for each 250 square feet of gross floor area
Medical and dental offices including clinics and medical laboratories	1 space for each 150 square feet of gross floor area
Medical clinics, outpatient centers, 24 hour urgent care centers, etc.	2 spaces per exam or outpatient procedure/operating room. Plus, 1 space per laboratory or recovery room, plus employee parking
Hospitals	2 spaces per inpatient bed plus 1 space per each 200 square feet of office or outpatient area
<i>General Commercial/Retail</i>	
All Commercial/retail	1 space for each 200 square feet of gross floor area
Commercial/retail centers	As follows: ;<50,000 square feet; 1 space for each 200 square feet of gross floor area. 50,000 to 450,000 square feet of gross floor area; 1 space for each 250 square feet and >450,000 square feet of gross floor area; 1 space for each 300 square feet. Non-retail uses such as restaurants, bars and theaters shall be calculated separately based upon their respective requirements
Vehicle dealership, sales and service	1 space for each 200 square feet of net floor area, plus 3 spaces per each auto service bay
Recreational vehicles, boat, mobile home and similar sales	1 space for each 500 square feet of net floor area plus 2 spaces per each vehicle sales service bay
<i>Restaurants and Cafes</i>	
Standard restaurant and tavern	1 space for each 2 seats, based on maximum seating capacity as determined by the building code in effect in the Township
Drive-in and drive-through restaurant	1 space for each 70 square feet of net floor area, plus 10 stacking spaces for drive-through service which do not conflict with use of required spaces, plus 2 longer spaces designated for recreational vehicles, buses and semi-trucks

Carry-out restaurant	6 spaces for each service or counter station plus employee parking
<i>Commercial Services</i>	
Vehicle gas filling station	1 space for each 125 square feet of net floor area, plus 2 parking spaces per fueling station
Vehicle oil changing station	2 stacking spaces for each service stall, rack or pit plus employee parking
Vehicle repair	2 spaces for each service bay, plus 1 space for each tow truck, plus adequate spaces for overnight parking, plus employee parking
Vehicle wash	2 spaces, plus 15 stacking spaces per bay for a semi or fully automatic wash, 3 stacking spaces per bay for a self-serve wash plus employee parking
Barber shop/beauty salons	3 spaces for each barber chair or station
Funeral home and mortuary	1 space for each 50 square feet of service parlors, chapels and reception area, plus 1 space for each funeral vehicle stored on premise
Motel/hotel with restaurant or lounge	1 space for each guest room plus 12 spaces for each 1000 square feet of restaurant/lounge
Banquet halls or conference rooms and similar uses without fixed seats	1 space for every 2 persons of capacity authorized by the fire or building code or 1 space for each 100 square feet of net floor area, whichever is greater, plus any required parking for other uses, such as restaurants, gift shops, etc.
Self-storage mini-warehouse	1 space for each 100 storage units with a minimum of 6 spaces
Video rental establishments	1 space for each 150 square feet of net floor area
<i>Recreational</i>	
Health fitness centers, athletic clubs, martial arts studios and other similar uses	1 space for each 200 square feet of net floor area
Bowling Alleys	5 spaces for each lane plus 25% of the required parking for any restaurant or lounge
Commercial outdoor recreational facilities such as archery ranges, batting cages, miniature golf courses, etc.	2 spaces for each archery range, batting cage, miniature golfhole or similar activity
Dance or pool halls, ice or roller skating rinks	1 space for each 3 persons allowed within the maximum occupancy load as established by the fire or building codes or 1 space for each 200 square feet of net floor area, whichever is greater
Golf course driving ranges	2 spaces for each 3 tees
Golf courses	3 spaces for each course hole, plus any required parking for other uses such and banquet hall, gift shop or lounge
Public swimming pools	1 space for each 3 persons of capacity authorized by the fire or building code
Indoor racquetball/tennis facilities	1 space for each 1000 square feet of net floor area or 6 spaces per court, whichever is greater
Theaters, auditoriums, gymnasiums and similar uses	1 space for each 3 seats or 6 feet of bleachers

Electronic gaming arcades	1 space for each 50 square feet of net floor area, with a minimum of 6 spaces required
<i>Industrial</i>	
Light industrial, manufacturing, testing labs, research and development centers and related accessory offices	1 space for each 550 square feet of gross floor area
Warehousing	1 space for each 1500 square feet net floor area plus employee parking

H. *Off-street parking lot design standards and requirements.*

1. *Barrier free parking.* Off-street parking lots are required to provide Barrier Free Parking spaces in accordance with the Michigan Department of Labor, Construction Code Commission Barrier Free Design Division. Table 11.2 below is the minimum number of accessible spaces required per the total number of parking spaces provided.

TABLE 11.2. SCHEDULE OF BARRIER-FREE PARKING

Total Parking Spaces Provided	Minimum Number of Accessible Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

2. *Pavement.* All driveways and parking lots, shall be hard surfaced with concrete or asphalt. Suitable provisions shall be made to prevent vehicles from encroaching on adjoining landscape areas or pedestrian walkways and to contain vehicles in designated parking areas. Bumper blocks may be used only in the case of retrofit of existing parking areas. The Planning Commission may approve alternative paving materials, such as permeable grass pavers, for overflow, seasonal or low usage parking, based upon the review and recommendation of the Township Engineer.
3. *Drainage.* All parking lots shall be graded or drained to dispose of stormwater runoff. The Planning Commission may permit openings in the curbing for drainage purposes. No surface water shall be permitted to drain directly onto adjoining property unless a drainage easement has been obtained. Discharge of drainage into a public right-of-way, County Drain or Municipal storm sewer shall require written approval from the, the appropriate local, County or State agency.
4. *Dimensions.*
  - a. All parking spaces and maneuvering aisles shall be designed in accordance to the Barrier Free standards adopted by the State of Michigan and shall adhere to the following:



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- i. The minimum size for all parking spaces shall be one hundred eighty (180) square feet or nine (9) feet by twenty (20) feet. The minimum size may be increased based on parking angles, Off-Street Parking Standards are illustrated in Figure 11.1.
      - b. All spaces shall be provided adequate access by means of maneuvering lanes. All maneuvering lane widths shall permit one way traffic movement, except that the ninety (90) degree pattern may permit two (2) way movements.
        - i. The minimum width for all maneuvering lanes shall be twelve (12) feet for a one-way lane and twenty four (24) feet for a two-way lane.
      - c. Required stacking spaces shall be a minimum ten (10) feet wide and twenty (20) feet in length.
    - I. *Illumination.* All illumination of parking lots or display areas shall be designed and installed to comply with the requirements of Article 13, Lighting.
    - J. *Landscaping.* The parking area shall provide screening, greenbelts, buffers and parking lot landscaping in accordance with Article 12, Landscaping. Parking spaces adjacent to required landscaping or open space areas shall be curbed to prevent any vehicle overhang into those landscaped or open space areas.
    - K. *Parking abutting sidewalks.* Where a parking space overhangs a sidewalk, the minimum sidewalk width shall be seven (7) feet.
    - L. *Construction and maintenance.*
      - 1. Plans and specifications for parking areas shall be submitted and approved following the site plan review requirements of Article 5, Site Plan Review.
      - 2. Required parking lots shall be installed and completed before issuance of an occupancy permit.
      - 3. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities meeting the standards of this Article are provided elsewhere or the parking requirements of the site are changed.
      - 4. Pavement shall be maintained in good condition. The visibility of pavement markings delineating parking spaces and directional control shall be maintained.
      - 5. All off-street parking and loading facilities required by this Article shall be maintained free of accumulated snow, debris or other materials which prevent full use and occupancy of such parking facilities, except for temporary periods of no more than five (5) days in the event of heavy rainfall or snowfall.
      - 6. The storage of and/or the repair of merchandise, materials, equipment or vehicles are prohibited on required off-street parking or loading spaces.

( Ord. No. Z-014 , § 4, 6-12-2019)

### **Sec. 11.03. Traffic impact analysis.**

The Planning Commission may require a traffic impact analysis to analyze the effect of development upon existing street traffic. The traffic impact analysis shall be paid for by the applicant and shall examine existing and proposed traffic flow, trip generation studies, impacts on major intersections, turning movement analysis, roadway capacity, parking generation and site ingress/egress. The traffic impact analysis shall be prepared by a registered professional engineer or transportation planner.

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## **Sec. 11.04. Access management.**

### *A. General requirements.*

1. Adequate ingress and egress to the parking facility shall be provided by clearly defined driveways. Access to public roads shall be controlled in the interest of public safety. Each building or group of buildings used for non-residential purposes, and its parking or service area, shall be physically separated from public roads by a greenbelt, curb, or other suitable barrier against unchanneled motor vehicle access or egress, except for access ways authorized herein.
2. Driveway design and placement must be in harmony with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal peak traffic period. Parking lots shall be designed to prevent vehicles from backing into the street or requiring use of the street for maneuvering between parking rows.
3. Marginal access is required and shall be located to provide a direct connection with the existing or future marginal access of the abutting non-residential properties. The Planning Commission may approve a site plan without marginal access when it can be demonstrated that there are either physical limitations or functional circumstances that would prevent such access from being installed.
4. There must be sufficient on-site storage to accommodate at least three (3) queued vehicles waiting to park or exit without using a portion of the public right-of-way obstructing exiting vehicle sight distance, or otherwise interfering with street traffic.
5. Driveways shall be designed to accommodate all vehicle types having occasion to enter and exit the site, including delivery vehicles. There shall be clear delineation and/or separation, where appropriate, of entry and exit lanes within driveways.
6. Ingress and egress to an off-street parking lot for all uses other than single-family residential shall not cross land zoned for single-family.

### *B. Location and spacing.*

1. Ingress and egress from an off-street parking lot located in an area zoned for all uses other than single-family residential shall be at least twenty-five (25) feet from adjacent property zoned single-family residential.
2. The number of access points shall be limited to the minimum needed to provide reasonable access. Access points shall be designed and located to minimize conflicts with traffic operations along the street and be placed as far from intersections as practical, but no closer than one hundred twenty-five (125) feet as measured from centerline to centerline. The minimum separation between driveways shall be based upon the posted speed limit of the street.

## **Sec. 11.05. Clear vision area.**

In any district, no fence, wall, shrubbery, sign or other obstruction of vision above a height of thirty-six (36) inches from the established road or street grade shall be permitted within a triangular area formed at the intersection of the right-of-way lines by drawing a straight line between such right-of-way lines along each line twenty-five (25) feet from the point of intersection. Clear Vision Area shall also apply to the intersection of driveways and shall require a ten (10) foot line to form the triangle.

**Sec. 11.06. Off-street loading and unloading requirements.**

- A. *Where required.* On-premises space for standing, loading and unloading vehicles shall be provided for each use involving the receipt or distribution of goods. The Planning Commission may permit central loading areas to be shared by multiple uses, such as in a retail shopping center or office park.
- B. *Traffic flow location.* The location of the loading area shall be sufficient to prevent undue interference with adjacent, required parking spaces, maneuvering aisles, or traffic flow. Loading and unloading is not permitted in public roads or right-of-ways. Loading/unloading areas and docks shall not be provided in the front yard. Where possible, loading areas shall be integrated into the design of the building to minimize visibility.
- C. *Alleys.* Where an alley exists at the rear of the building, the required loading area may be computed from the centerline of the alley.
- D. *Size.* The size of all required loading/unloading spaces shall be at least ten (10) feet by fifty (50) feet or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. The Planning Commission may modify this requirement for uses that will involve smaller delivery trucks such as offices.
- E. *Pavement.* Loading dock approaches shall be constructed of an asphalt or concrete with a base sufficient to accommodate expected vehicle weight.
- F. *Number.* The minimum number of loading spaces shall be provided in accordance with the following Table 11.3:

TABLE 11.3. OFF-STREET LOADING REQUIREMENTS  
INSTITUTIONAL, COMMERCIAL AND OFFICE USES

Up to 5,000 sq. ft. GFA	1 space
5,001—60,000 sq. ft. GFA	1 space, plus 1 space per each additional 20,000 sq. ft. GFA
60,001 sq. ft. GFA and over	3 spaces, plus 1space per each additional 50,000 sq. ft. GFAIndustrial Uses
Up to 1,400 sq. ft. GFA	0
1,401—20,000 sq. ft. GFA	1 space
20,001 - 100,000 sq. ft. GFA	1 space, plus 1 space per each additional 20,000 sq. ft. GFA in excess of 20,000 sq. ft.
100,001 sq. ft. GFA and over	5 spaces

**Sec. 11.07. Pedestrian, bicycle and multi-purpose paths.**

- A. *General standards.* The parking and circulation system within each development shall accommodate the movement of vehicles, bicycles, pedestrians and transit throughout the proposed development and to and from surrounding areas, safely and conveniently, and shall contribute to the attractiveness of the development. The on-site pedestrian system must provide continuity, street crossings, visual interest and security as defined by the standards in this Section.
- B. *General requirements.* External public multi-purpose paths shall be required for all developments subject to site plan review unless waived by the approving body based on priorities within the approved Non-Motorized Pathway Master Plan. Such paths may also be required under a land use permit or special land use review. In addition, an internal pedestrian circulation system shall be developed for any single family

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residential development as required for compliance with the Land Division Ordinance. All paths shall be constructed in accordance to the Engineering Design Standards as adopted by Highland Township.

1. *Residential.* The size, type and location of paths shall be determined by the Planning Commission during site plan review.
  2. *Non-residential.* For new development, the size, type and location of paths shall be determined by the Planning Commission during site plan review, in conformance with the Non-Motorized Pathway Master Plan. For existing developments, the Zoning Administrator shall require installation of paths in accordance with the approved site plan of record.
  3. *Required easements.* All public paths not within a road right-of-way shall be placed in a permanent easement for the construction, operation maintenance, repair and/or replacement of the path, and will allow pedestrian and non-motorized traffic access to adjacent properties.
- C. *Safety considerations.* To the maximum extent feasible, pedestrians shall be separated from vehicles.
1. *Minimizing pedestrian/vehicular conflicts.* Physical separation of pedestrian and vehicular access is the most effective means of avoiding conflicts and unsafe conditions. Where complete separation of pedestrians and vehicles is not possible, potential hazards shall be minimized by the use of techniques such as special paving, grade separations, pavement marking, signs or striping, bollards, pedestrian safety island, landscaping, lighting or other traffic calming measures to clearly delineate pedestrian areas, for both day and night use.
  2. *Multi-purpose paths.* Where multi-purpose paths are required or are specifically part of a site plan and pedestrians and bicyclist share walkways, the pedestrian/bicycle system shall be designed to be wide enough to easily accommodate the amount of pedestrian and bicycle traffic volumes that are anticipated. A minimum width of eight (8) feet shall be required and shall meet American Association of State Highway and Transportation Officials (AASHTO) guidelines and applicable Township Engineering design standards.  
  
Additional width of up to four (4) feet may be required to accommodate higher volumes of bicycle and pedestrian traffic.
  3. *Curb cuts and ramps.* Curb cuts and ramps shall be located at convenient, safe locations for the physically disabled, for bicyclists and for people pushing strollers or carts. The location and design of curb cuts and ramps shall meet the requirements of the Michigan Barrier Free Code and the American With Disabilities Act and, to the extent possible, shall avoid crossing or funneling pedestrian traffic through loading areas, drive-through lanes and outdoor trash storage/collection areas.
  4. *Site amenities.* Development plans shall include site amenities that enhance safety and convenience and promote walking or bicycling as an alternative means of transportation. Site amenities may include bike racks, drinking fountains, canopies and benches. However, all sites with parking of ten (10) spaces or greater shall provide a bike rack for at least two (2) bicycles within fifty (50) feet of the building entrance.
  5. *Internal pedestrian paths.*
    - a. Pedestrian paths within the site shall be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination. Such paths shall not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access. Such connecting paths shall either be grade separated from the parking lot or clearly delineated as to avoid pedestrian/vehicular conflicts with a paved surface not less than six (6) feet in width. Drive aisles leading to main entrances shall have walkways on at least one (1) side of the drive aisle.

- b. Where it is necessary for the pedestrian access to cross maneuvering aisles or internal roadways, the crossings shall emphasize and place priority on pedestrian access and safety. The pedestrian crossings must be well-marked, using such measures as pavement treatments, signs, striping, signals, lighting, pedestrian safety islands, landscaping and other traffic calming techniques.

FIGURE 11.1. OFF-STREET STANDARDS

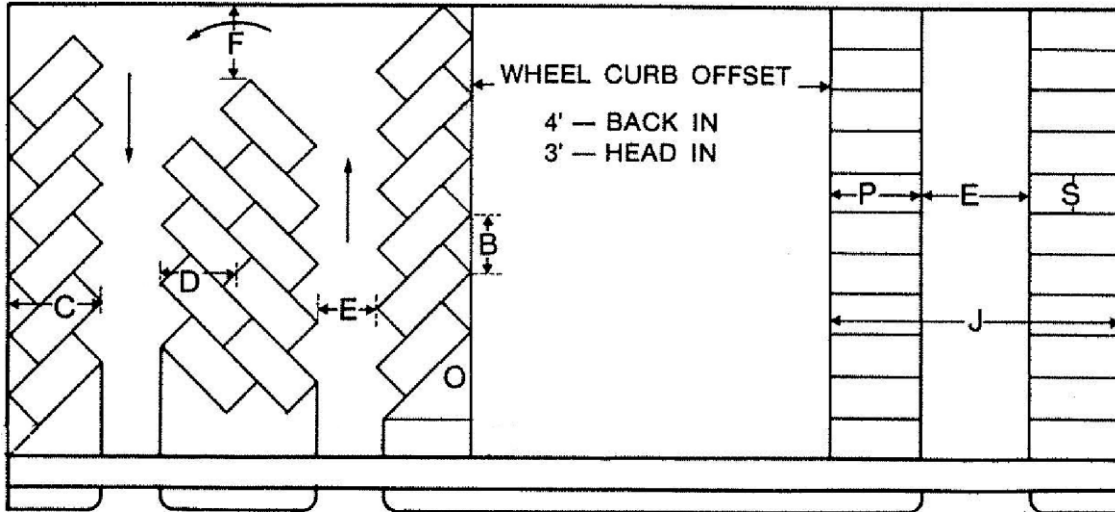


Table of Dimensions (in feet)								
O	S	P	B	C	D	E	F	J
0°	10.0	19.0	20.0	9.0	9.0	12.0	—	30.0
30°	9.0	20.0	18.0	17.8	13.9	12.0	15.0	47.6
45°	9.0	20.0	12.8	20.5	17.4	13.0	17.0	54.0
60°	9.0	20.0	10.3	21.8	19.6	18.0	15.0	61.6
90°	9.0	20.0	9.0	20.0	20.0	24.0	20.0	64.0
O = Parking Angle					D = Perpendicular length of stall (overlap)			
S = Parking Space Width					E = Aisle Width			
P = Parking Space Length					F = Turn around aisle width			
B = Curb length of Parking Space Width					J = Wall-to-Wall Dimension (C + E + C)			
C = Perpendicular Length of Stall (against wall)								

## ARTICLE 12. LANDSCAPING

### Sec. 12.01. Intent.

- A. The intent of this section is to promote the public health, safety, and welfare and improve the visual appearance of the Township by requiring landscaping for each development for which site plan or subdivision plat review is required or where the use of an existing building changes, expands or is otherwise altered. It is further the intent of this section to achieve the following:
1. Minimize noise, air, and visual pollution.
  2. Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other vehicular use areas.

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3. Require buffering of residential areas from more intense land uses, buffering of public road rights-of-way and parking lots.
  4. Prevent soil erosion and promote subsurface water retention.
  5. Encourage an appropriate mixture of plant material and species, to protect against insect and disease infestation and produce a more aesthetic and cohesive design.
  6. Promote the integration of existing woodlands and landscape plans.
  7. Provide and improve wildlife corridors.
  8. Protect and preserve the appearance, character, and value of the community.

### **Sec. 12.02. Application of requirements.**

These requirements shall apply to all uses for which site plan review is required in Article 5, Site Plan Review, Procedures and Standards or subdivision plat review as required under the Land Division Ordinance. Except for Farm Markets, which are regulated under Section 10.13. No site plan or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

### **Sec. 12.03. Landscape plan requirements and elements.**

- A. A separate, detailed landscape plan shall be submitted to the Planning Commission as part of the site plan review and tentative preliminary plat review. The landscape plan shall demonstrate that all requirements of this Section are met and shall include, but not necessarily be limited to, the following items:
  1. Name, Address and qualifications of individual who prepared the landscape plan;
  2. A minimum scale of one (1) inch equals fifty (50) feet for property less than three (3) acres or one (1) inch equals one hundred (100) feet for property greater than three (3) acres;
  3. On parcels greater than one (1) acre, existing and proposed contours on site and fifty (50) feet beyond the site at intervals not to exceed two (2) feet;
  4. The location, spacing, size, and root type (bare root (BR) burlapped (BB) or container (C)) and descriptions for each plant type proposed for use within the required landscape area;
  5. Typical straight cross section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall, including footings;
  6. Construction and grading details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns;
  7. Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials;
  8. Identify existing trees and vegetative cover to be preserved and/or installed in accordance with Section 15.02, Natural Resources Inventory and Stewardship Plan;
  9. Identify a landscape maintenance program including a statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this Ordinance.
- B. Landscape plans shall be subject to the following minimum standards:
  1. *Composition.*
    - a. Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to Oakland County, conform to the current minimum standards for nursery stock

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of the American Nursery and Landscape Association and shall have proof of any required governmental regulations and/or inspections.

- b. A mixture of live plant material, such as evergreen and deciduous trees and shrubs, is required as a protective measure against insect and disease infestation. Artificial plant materials are prohibited. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly arrangement. Additionally, native species of trees and shrubs shall constitute at least fifty (50%) percent of the total proposed plantings.
2. *Berms.* Berms shall be constructed with slopes not to exceed a one to three (1:3) gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.
3. *Coordination with utilities and signs.* Provision shall be made to coordinate landscaping with existing and proposed underground and overhead utility lines and signs so as to avoid interference with plant growth.
4. *Existing trees.* The preservation and incorporation of existing trees in a landscape plan is encouraged. Where existing trees are used to satisfy the requirements of this Section, the following requirements shall apply:
  - a. Paving, or other site improvements, shall not encroach upon the dripline of the existing tree(s) to be preserved.
  - b. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Township, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Township.
  - c. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the Township, the applicant shall replace them with trees which are either equivalent in size or replace the total d.b.h. of the trees which have been removed.
5. *Stormwater retention and detention ponds.* The integration of stormwater retention and detention ponds in the overall landscape concept is recommended. Ponds with a natural, rather than square or rectangular, design and appearance shall be encouraged. See Section 15.03, Stormwater Management.
6. *Installation, maintenance, and completion.*
  - a. All landscaping required by this Ordinance shall be planted before obtaining a certificate of occupancy or the appropriate performance guarantee as required in Article 3, Administration and Enforcement.
  - b. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.
  - c. Landscaping required by this Ordinance shall be maintained in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with irrigation or a readily available and acceptable water supply.
  - d. Failure to install and maintain approved landscaping shall be considered a violation of the approved site plan and this Ordinance.

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#### **Sec. 12.04. Screening between land uses.**

- A. Visual screening between land uses shall be installed or constructed at least six (6) feet in height along all adjoining boundaries when a proposed use is either more intense or incompatible with an adjoining property. The Planning Commission shall determine if the visual screen may be a landscape buffer, a solid wall or fence determined based on the surrounding and proposed uses. If a landscape buffer is required, it shall be installed the length of the adjoining boundaries from the front yard setback to the rear property line. The landscape buffer shall consist of trees, shrubs and grasses and shall be designed to maintain a minimum opacity of at least eighty percent (80%). The buffer shall consist of deciduous trees, evergreen trees and shrubs.
- B. Where a land use activity creates noise, light, dust or other similar nuisance that cannot be effectively screened by a landscape buffer, the Planning Commission may require a solid wall or fence. Such wall or fence shall be a minimum of six (6) and a maximum of eight (8) feet in height as measured on the side of the proposed wall having the higher grade. The required wall shall be located on the adjoining property line. The construction materials of the wall or fence masonry, stone or durable wood and steel.
- C. In the HS - Highland Station District, visual screening between land uses shall be a solid screen utilizing an evergreen landscape hedge, decorative masonry wall or wood decorative fencing. The maximum height of such screening shall not exceed six (6) feet. See Historic Highland Station Design Guidelines for landscaping and parking.

#### **Sec. 12.05. Parking lot landscaping.**

- A. *Required landscaping within parking lots.* Separate landscape areas shall be provided within parking lots so as to break up the broad expanse of pavement, guide the circulation of vehicular and pedestrian traffic, and moderate the changes to the micro climate which results from additional pavement. The following minimum requirements shall apply:
  - 1. There shall be a minimum of one (1) tree and three (3) shrubs for every eight (8) parking spaces.
  - 2. Landscaping shall be arranged in curbed islands within the parking lot which shall not be less than two hundred (200) square feet in area. The Planning Commission may consider an alternate design to accommodate creative designs such as rain gardens, bio-swales, or other landscape/storm water management techniques.
  - 3. The Planning Commission may approve an equivalent amount of landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot, detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing.
- B. *Required landscaping adjacent to public rights-of-way.* Parking lots shall be screened from view along the perimeter of those sides that are visible from all road rights-of-way. The screening shall consist of a landscaped berm, a wall or sufficient plantings three (3) feet in height, to prevent headlights from shining into the road rights-of way. Areas for display and storage of vehicles held in inventory as identified in Section 10.27, Vehicle Dealership and Rental Agencies, are exempt from the screening requirement when located adjacent to the right-of-way, but must comply with all requirements of Section 12.06, Greenbelts.

#### **Sec. 12.06. Greenbelts.**

A greenbelt, as defined in Article 2, Rules of Construction and Definitions, shall be provided in accordance with the following requirements:



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- A. The greenbelt shall be a minimum of twenty (20) feet in width for all non-residential properties fronting Highland Road (M-59) and twelve (12) feet in width for all other non-residential uses. The minimum greenbelt width for the HS - Highland Station District shall be determined during site plan review
  - B. The greenbelt shall be landscaped with a minimum of one (1) deciduous tree for every thirty (30) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. The width of driveways shall not be counted as frontage abutting a public road.
  - C. Creative placement of the trees, such as staggering, clustering and/or other methods, is encouraged in an effort to eventually achieve a canopy.
  - D. In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped with trees, grasses, ground covers and shrubs.
  - E. Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees.

### **Sec. 12.07. Site landscaping.**

In addition to any landscape, greenbelt and/or parking lot landscaping required by this Section, at least fifteen percent (15%) of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas, gardens and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention units, loading areas, and trash areas. The landscaping design shall promote compatibility, and preserve the character of the site, in relation to the immediately surrounding area and in relation to the general area in which the property is situated.

### **Sec. 12.08. Screening of trash containers.**

- A. Outside trash disposal, recycling and grease containers shall be screened on all sides with an opaque fence or wall, and gate at least six (6) feet in height and as high as the container, and shall be constructed of durable material and construction which is compatible with the architectural materials used in the site development.
- B. Containers shall be consolidated to minimize the number of collection sites and located in close proximity to the building they serve.
- C. Containers and enclosures shall be located away from public view.
- D. Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of adjoining properties.
- E. Concrete pads and aprons of appropriate size and construction shall be provided.

### **Sec. 12.09. Subdivision and site condominium landscaping.**

Landscaping for subdivisions and site condominiums shall be provided in accordance with the following standards:

- A. *Street trees.* The frontage of all internal public or private streets shall be landscaped with the equivalent of one (1) tree for every fifty (50) lineal feet, or fraction thereof. Such street trees shall meet the minimum size, spacing and species requirements set forth in Sections 12.10, Minimum Size and Spacing Requirements, and 12.11, Prohibited Species.

- B. *Screening between land uses.* Where a subdivision or site condominium contains uses which are more intense or incompatible with an adjoining property, the screening requirements set forth in Section 12.04, Screening Between Land Uses, shall be met.
- C. *Screening from public roads.* Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in Section 12.04, Screening Between Land Uses, shall be met.
- D. *Other site improvements.* A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, stormwater retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.

**Sec. 12.10. Minimum size and spacing requirements.**

Where landscaping is required, the following minimum size and spacing requirements set forth in Table 12.1 for representative landscape materials shall be applicable, unless otherwise specified in this Section:

TABLE 12.1. MINIMUM SIZE AND SPACE OF LANDSCAPE PLANTING

	Minimum Size Allowable						Maximum On-Center Spacing**											
	Height			Caliper Spread			Feet											
	5'-6'	3'-4'	2'-3'	2"	2.5"	18"-2'	2 gal.	30	25	15	10	6	5-6	5	4	3	2	1
<b>Large Evergreen Trees:</b>																		
Fir (Abies)																		
Spruce (Picea)																		
Pine (Pinus)																		
Hemlock (Tsuga)																		
Douglas Fir (Pseudotsuga)																		
Tamarack; Larch (Larix)																		
<b>Narrow Evergreen Trees:</b>																		
Red Cedar (Juniperus)																		
Arborvitae (Thuja)																		
Juniper (Juniperus)																		
<b>Large Evergreen Shrubs:</b>																		
Hicks Yew (Taxus)																		
Upright Yew (Taxus)																		
Spreading Yew (Taxus)																		
Upright Juniper (Juniperus)																		
Spreading Juniper (Juniperus)																		
Mugho Pine (Pinus)																		

<b>Small Evergreen Shrubs:</b>																
Spreading Yew																
Dwarf Spreading Juniper																
Dwarf Mugho Pine																
Euonymous varieties*																
<b>Vines:</b>																
Euonymous varieties*																
Virginia Creeper																
Wisteria																
Riverbank Grape																
American Bittersweet																
<b>Large Deciduous Trees:</b>																
Oak (Quercus)																
Maple* (Acer)																
Beech (Fagus)																
Linden or Basswood (Tilia)																
Sweetgum (Liquidambar)																
Ginkgo (Male Only) (Ginkgo)																
Honeylocust (Gleditsia)																
Birch (Betula)																
Sycamore (Plantanus)																
Hickory (Carya)																
Black Cherry (Prunus)																
Tulip Tree (Liriodendron)																
Blackgum (Nyssa)																
<b>Small Deciduous Trees (Ornamental):</b>																
Dogwood																
Flowering Cherry, Plum, Pear																
Hawthorn																
Redbud																
Magnolia																
Flowering Crabapple																
Mountain Ash																
Hornbeam																



**Sec. 12.11. Prohibited species.**

- A. As of the effective date of this ordinance, the following species shall not be newly planted in landscaping. These plants are not native to the area, reproduce profusely and have potentially harmful effects on natural ecosystems.

Trees	
Common Name	Scientific Name
White Ash*	Fraxinus americana
Green Ash*	Fraxinus pennsylvanica
American Elm	Ulmus Americana
Norway Maple	Acer platanoides
Amur Maple	Acer ginnala
Tree of Heaven	Ailanthus altissima
European Alder	Alnus glutinosa
Golden Rain Tree	Koelreuteria paniculata
Amur Cork Tree	Phellodendron amurense
White Poplar	Populus alba
Black Locust**	Robinia pseudocacia
Siberian Elm	Ulmus pumila

\*A native species, but prohibited due to Emerald Ash Borer.

\*\*A native species, but tends to be invasive.

Shrubs and Vines	
Common Name	Scientific Name
Porcelainberry	Ampelopsis brevipedunculata
Japanese barberry	Berberis thunbergii
Common barberry	Berberis vulgaris
Oriental Bittersweet	Celastrus orbiculatus
Autumn Olive	Eleagnus umbellata
Russian Olive	Eleagnus angustifolia
Burningbush	Euonymus alatus
Wintercreeper	Euonymus fortunei
English Ivy	Hedra helix
Privet	Ligustrum vulgare
Japanese Honeysuckle	Lonicera japonica
Amur Honeysuckle	Lonicera maackii
Morrow Honeysuckle	Lonicera morrowi
Tartarian Honeysuckle	Lonicera tatarica
Common Buckthorn	Rhamnus cathartica
Glossy Buckthorn	Rhamnus frangula
Multiflora Rose	Rosa multiflora
Guelder Rose	Viburnum opulus var. opulus

Grasses and Grass-Like Plants
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Common Name	Scientific Name
Chinese Silver Grass	Miscanthus sinensis
Giant Reed	Phragmites communis
Reed Canary Grass	Phalaris arundinacea

Flowers and Groundcovers	
Common Name	Scientific Name
Garlic Mustard	Alliaria officinalis
Spotted Knapweed	Centaurea maculosa
Crown Vetch	Coronilla varia
Queen Ann's Lace	Daucus carota
Foxglove	Digitalis purpurea
Japanese Knotweed	Fallopia japonica
Dame's Rocket	Hesperis matronalis
Purple Loosestrife	Lythrum salicaria

## **ARTICLE 13. LIGHTING**

### **Sec. 13.01. Intent.**

The intent of this section is to establish standards to provide adequate outdoor lighting for the safety, security and visibility of non-residential properties; to minimize light pollution; to maintain safe nighttime driver performance on public roadways; to preserve the restful quality of the night by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow"; to reduce light pollution and light trespass onto adjacent properties; to prevent degradation of the natural nighttime visual environment, and to enhance community appearance through quality lighting design.

### **Sec. 13.02. Lighting plan requirements.**

The following information must be provided on all site plan submissions:

- A. Location of all free-standing, building-mounted and canopy light fixtures on the site plan and/or building elevations.
- B. Photometric grid overlaid on the proposed site plan, indicating the overall light intensity throughout the site (in foot-candles) and ten feet beyond the parcel lines. The Planning Commission may waive the requirement for small sites with parking lots of ten (10) spaces or less, if the site is not adjacent to residentially zoned property.
- C. Specifications and details for the type of fixture being proposed, including the initial lumen rating, type of lamp, method of shielding, type of lens and all applicable accessories. The details shall include a depiction of the lighting pattern and light levels applicable for the proposed pole height.

### **Sec. 13.03. Freestanding pole lighting.**

- A. *Fixture design.*

1. Exterior lighting shall be a full cut-off fixture or a fully shielded fixture, downward directed with a flat lens to prevent glare.
2. Metal halide, incandescent, florescent, or mercury vapor fixtures shall be used in an effort to maintain a unified lighting standard throughout the Township and prevent light pollution. Sodium vapor fixtures may be used but only with color corrected lamps.
3. The Planning Commission may approve decorative or historic light fixtures as an alternative to shielded fixtures when it can be shown that there will be no off-site glare through the use of low wattage lamps and the proposed fixtures will be more consistent with the character of the site.

**B. Lighting levels.**

1. The intensity of light at the base of a light fixture pole shall not exceed twenty (20) foot-candles during business hours and ten (10) foot-candles after business hours.
2. Properties adjacent to residential properties shall be designed and maintained such that illumination levels shall not exceed one-tenth (0.1) foot-candle along property lines. Lighting for uses adjacent to non-residential properties shall be designed and maintained such that illumination levels do not exceed one (1.0) foot-candle along property lines.
3. Parking lot illumination shall average the following intensities over the entire area measured five (5) feet above the surface:

Parking Lot Size	Parking Lot Minimum Illumination During Business Hours (foot-candles)	Parking Lot Maximum Illumination During Business Hours (foot-candles)	Parking Lot Maximum Illumination After Business Hours (foot-candles)
Small (5-10 spaces)	0.4	6	1
Medium (11-99 spaces)	0.6	8	1.5
Large (100+ spaces)	0.8	10	2

- C. *Height.* The maximum height of a base, a pole and fixtures shall be twenty-five (25) feet. The Planning Commission may permit a maximum height of thirty (30) feet in an industrial district where fixtures are no closer than two hundred (200) feet to any residential district.
- D. *Duration.* All outdoor lighting fixtures, existing or hereafter installed and maintained upon private property, shall be turned off or reduced in lighting intensity between 11:00 p.m. and sunrise except as follows:
  1. Where the Planning Commission finds that greater lighting levels are necessary for security or safety purposes; or
  2. Where permissible commercial or industrial uses such as sales, assembly and repair operate after 11:00 p.m., in which case the lighting levels shall be turned off or reduced after the use ceases for that day.
  3. The Planning Commission may approve lighting plans for twenty-four (24) hour operations subject to the condition that many of the fixtures shall be turned off after 11:00 p.m.

**Sec. 13.04. Building-mounted lighting.**

Building-mounted lighting for the purpose of lighting entrances, adjacent sidewalks, parking areas and loading areas is permitted subject to the following restrictions:

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- A. Building-mounted lighting shall be a full cutoff fixture or fully shielded and directed downward to prevent glare. The intensity of light shall not exceed twenty (20) foot-candles during business hours and ten (10) foot candles after business hours at the ground level for any fixture mounted up to a maximum height of twenty (20) feet. Light shall not exceed one-tenth (0.1) foot-candle along zoned or existing residential property lines and one (1) foot-candle along non-residential property lines.
  - B. Metal halide, incandescent, florescent, or mercury vapor fixtures shall be used in an effort to maintain a unified lighting standard throughout the Township and prevent light pollution. Sodium vapor fixtures may be used but only with color corrected lamps.
  - C. The Planning Commission may approve decorative or historic light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare through the use of low wattage lamps and the proposed fixtures will be more consistent with the character of the site.

### **Sec. 13.05. Architectural lighting of building facades.**

The lighting of a building façade for architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions:

- A. All building façade lighting shall be low intensity, with a fixture rating of less than nine hundred (900) lumens. All building façade lighting shall be fully shielded and fully confined from projecting into the sky by eaves, roofs or overhangs, and mounted as flush to the wall as possible.
- B. Luminaries with fixture ratings exceeding nine hundred (900) lumens shall be downward directed and fully shielded, mounted as flush to the wall as possible.
- C. The maximum illumination of any vertical surface or angular roof surface shall not exceed three (3) foot candles.
- D. Luminous tube and exposed bulb florescent lighting may be permitted as an architectural detail on all buildings, such as along the roof line and eaves, and around windows. The Planning Commission may approve internally illuminated architectural bands or external lighting directed on buildings where it can be shown that the treatment will serve a legitimate function and will not adversely impact neighboring properties.

### **Sec. 13.06. Sign/canopy lighting.**

- A. Sign lighting may be directed upward, downward or may be internal to the sign.
- B. Downward and upward directed sign lighting shall illuminate only the sign and meet the following conditions:
  - 1. Light trespass shall not exceed one (1) foot-candle along non-residential property lines, and one-tenth (0.1) foot-candle along residential property lines.
  - 2. The light level on the sign shall not exceed ten (10) foot candles.
  - 3. The light source shall not be more than ten (10) feet from the sign.
  - 4. Shields or other techniques to focus the light and prevent glare may be required to be installed after the fixture(s) has been installed and operating and found to be in violation of this requirement.
- C. All internal sign lighting shall illuminate the sign only. Reflected sign illumination intensity shall not exceed one and five-tenths (1.5) foot-candles as measured ten (10) feet from the face of the sign.
- D. All internally lit translucent or fabric awnings shall be prohibited within any zoning district.



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### **Sec. 13.07. Flagpole lighting.**

A flagpole may be illuminated by one of the following methods:

- A. With one upward aimed spotlight fixture, fully shielded and directed away from streets, shining only on the flag and minimizing light spill into the dark night sky. The fixture rating shall not exceed three thousand five hundred (3,500) lumens. The fixture shall be placed as close to the base of the flagpole as reasonably possible.
- B. With one downward aimed light fixture, fully shielded and directed away from streets, shining only on the flag and minimizing light spill into the dark night sky. The fixture rating shall not exceed three thousand five hundred (3,500) lumens.
- C. Flagpole placement and height are subject to regulation under Section 8.04 Area, Height and Use Exceptions.

### **Sec. 13.08. Prohibited lighting types.**

The following lighting types are prohibited within the Charter Township of Highland:

- A. The use of search lights or any similar high intensity light for outdoor advertisement or entertainment.
- B. Flashing, moving or intermittent type lighting.
- C. Exterior exposed luminous tube lighting except neon lighting used for signage or lighting approved by the Planning Commission as an element of the building façade under Section 13.05D, Architectural Lighting Of Building Facades.

### **Sec. 13.09. Exemptions.**

The following are exempt from the lighting requirements of this Section, except that the Zoning Administrator may require a lighting and photometric plan when deemed necessary to protect the public health, safety and welfare:

- A. Sports fields require site lighting plan approval by Planning Commission.
- B. Swimming pools serving the public or private club members.
- C. Holiday decorations.
- D. Three (3) foot high, shielded pedestrian walkway lighting.
- E. Ornamental low voltage lighting (twelve (12) volts or less), low wattage ornamental landscape lighting fixtures, and solar operated light fixtures having self-contained rechargeable batteries, where any single light fixture does not exceed one hundred (100) lumens.
- F. Traffic signals within a public or private road right-of-way.

### **Sec. 13.10. Lamp or fixture substitution.**

Should any light fixture or the type of lamp therein regulated under this Article be changed after the permit has been issued, a change request must be submitted to the Zoning Administrator for administrative approval, together with adequate information to assure compliance with the Zoning Ordinance, which must be received prior to substitution. Fixtures and lamps that match the original fixture type and number as part of regular maintenance are not required to submit this request.

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**Sec. 13.11. Residential and agricultural lighting.**

All outdoor lighting for residential and agricultural uses shall be a full cut off fixture or a fully shielded fixture or directed downward in a manner which reduces glare and prevents light trespass to neighboring properties.

***ARTICLE 14. SIGNS***

**Sec. 14.01. Intent.**

The intent of this article is to regulate signs and outdoor advertising within the Township to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction and loss of visibility; promote pedestrian and vehicular traffic safety and minimize negative impacts on surrounding property; promote a quality manner of display which maintains and enhances the character of the township; promotes public convenience; preserves property values; encourages the effective use of signs as a means of communication and support of businesses; and overall enhances the aesthetic appearance and quality of life within the Township.

The regulations and standards of this article are considered the minimum amount of regulation necessary to achieve a substantial governmental interest for public safety, traffic safety, aesthetics, protection of property values, and re intended to be content neutral. These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination and other aspect of signs in the Township so as to:

- A. Protect the public rights to receive messages, especially non-commercial messages such as religious, political, economic, social, philosophical, and other types of information protected by the First Amendment of the United States Constitution. Nothing in this chapter is intended to limit the expression of free speech protected by the First Amendment.
- B. Recognize that the principle intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises.
- C. Recognize that the proliferation of signs is unduly distracting to motorists and non motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.
- D. Recognize that different areas of the Township require different sign regulation due to factors such as their intended audience (pedestrians, drivers, etc.) and their ability to help promote the character of an area.
- E. Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
- F. Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.
- G. Prevent placement of signs that will conceal or obscure signs of adjacent uses.
- H. Prevent off-premises signs from conflicting with land uses.
- I. Preserve and improve the appearance of the Township and road corridors through the Township, including the M-59 corridor, by encouraging signs of consistent type and size which are compatible with and complementary to related buildings and uses, and are harmonious with their surroundings.
- J. Prohibit portable commercial signs near the road right-of-ways in recognition of their significant negative impact on traffic safety and aesthetics.

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## Sec. 14.02. Permits.

- A. *Permits required.* Unless otherwise specified in this Article, no sign shall be erected, altered, refaced or relocated without a Sign Permit approved by the Zoning Administrator and the Building Official.
- B. *Application.* A Sign Permit application shall be submitted to the Zoning Administrator and shall be accompanied by:
  - 1. A plot plan showing the location of the sign in relationship to all lot lines, structures, easements, right-of-ways, and the edge of road and parking lot pavement.
  - 2. The full dimensions of the sign, proposed copy, graphics, the elevation, and detail drawings showing colors and materials to be used.

Once the Zoning Administrator determines that the sign meets all of the standards set forth in this Ordinance and approves the proposed sign, then the Sign Permit application will be forwarded to the Building Official for final review and approval prior to any construction of the sign.

- C. *Site plan review.* For uses subject to site plan review under the provisions of Article 5, Site Plan Review, the site plan shall include a comprehensive sign plan including freestanding, wall mounted and directional sign locations subject to Planning Commission approval. The Zoning Administrator shall review sign permit applications for existing businesses.

## Sec. 14.03. Sign construction and maintenance.

- A. *Location.* Any sign on a parcel must relate to a use or activity permitted on that parcel, unless otherwise specified herein.
- B. *Height.* The height of a sign shall be measured as the vertical distance from the uppermost point of the sign to the average grade in the area immediately below and within fifteen (15) feet of the sign.
- C. *Area.* The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure. Circle, triangle or other geometric shaped sign face shall be computed on the basis of actual surface area. The calculation for a double-faced sign shall be the area of one face only. The copy of wall mounted signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing all of said letters or devices.
- D. *Orientation.* All permitted freestanding signs shall be placed parallel or perpendicular to the public right-of-way. If a sign is placed parallel to the public right-of-way, then the back of the sign shall be painted or maintained in a neutral color or a color that blends with the surrounding environment. Two faced signs shall be placed back to back.
- E. *Illumination.*
  - 1. No sign shall be illuminated by other than electrical means.
  - 2. The light from illuminated signs shall be directed in a manner and is of a brightness and intensity that will not interfere with vehicular traffic or with the enjoyment or use of adjacent properties as regulated in Section 13.06, Sign/Canopy lighting.
- F. *Safety and maintenance.*
  - 1. Signs shall not be permitted to corrode, rust, peel, break up or otherwise reach a state of disrepair that creates an unsightly or dangerous condition.

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- a. Any conforming sign found to be in such disrepair shall be removed or returned to its original condition within fifteen (15) days of written notice to the sign and/or property owner by the Zoning Administrator.
  - b. Any non-conforming sign found to be in such disrepair shall only be replaced by a sign in full compliance with the Ordinance. The substitution or interchange of face panels on non-conforming signs shall be permitted with the appropriate review, approval and permits. Minor repairs and maintenance of non-conforming signs, such as repainting, electrical and lighting repairs, shall be permitted. No structural repairs or changes in the size or shape of the sign shall be permitted, except to make the sign comply with the requirements of this Ordinance.
  - c. All signs shall be placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal, driver vision at any access point or intersection, or pedestrian movement on any public sidewalk or safety path.
  - d. No sign shall be erected, relocated or maintained in a manner that obstructs access to any door, window, fire escape or other required exit way.

#### **Sec. 14.04. Prohibited signs.**

The following signs are prohibited in all districts:

- A. Roof signs.
- B. Signs containing scrolling, flashing, moving lights or moving or revolving parts and other forms of animation.
- C. Signs affixed to bushes, trees or utility poles.
- D. Signs on vehicles parked in a manner to attract attention to a business or product or to increase the area of signage on a parcel. It is not the intent of this regulation to prohibit a business owner from parking a vehicle used in the normal course of business at the business address. This regulation is not intended to restrict signs identifying a business and product, on or adhered to a vehicle which is licensed and operating on public streets and highways or on or adhered to a vehicle parked during the transaction of business at a customer's location.
- E. Signs which are located within or overhang any road right-of-way or on public property, except signs erected under the Township's permit obtained from the Road Commission or MDOT, signs permitted in the Highland Station District regulated by section 9.05.G, Signage Guidelines. Traffic signs erected for traffic safety by public road agencies are not regulated by this Ordinance.
- F. Signs which are located within the clear vision area as defined in Section 11.05, Clear Vision Area.
- G. Signs which imitate traffic signals, traffic direction signs, or similar traffic control devices.
- H. Signs which make use of words such as "Stop," "Look," "Danger," or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.
- I. Any sign or other advertising structure containing obscene, indecent or immoral matter.
- J. Pennants, streamers and Permanent banners.
- K. All internally lit translucent or fabric canopy awning signs.
- L. Any abandoned or obsolete sign.
- M. Any sign unlawfully installed, erected or maintained.
- N. Any sign not expressly permitted by this Ordinance.

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### **Sec. 14.05. Obsolete/abandoned sign messages and structures.**

- A. Within thirty (30) days upon vacating a commercial establishment, the owner of the lot shall be responsible for the removal of all obsolete sign messages and copy used in conjunction with the business.
- B. If obsolete sign messages and copy are not removed or covered within thirty (30) days, then the Zoning Administrator will provide written notification and such signs messages and copy shall be removed within fifteen (15) days. Upon failure to comply with such notice within the time specified in such notice, the Zoning Administrator is hereby authorized to enter on the premises and remove or cover such copy or message. The property owner shall be notified of the cost. If such cost is not paid to the Township within thirty (30) days after mailing of the notice, the assessor shall add the same to the next tax roll of the Township and such cost shall be collected in the same manner in all respects as provided by law for the collection of taxes by the Township.
- C. Signs that are obsolete or blank and non-conforming after one (1) year shall be considered abandoned. Any sign deemed abandoned under this section, shall be removed within fifteen (15) days of such determination. Failure to remove the sign shall constitute a violation of the Zoning Ordinance.

### **Sec. 14.06. Signs allowed by right.**

The following signs are allowed without a Sign Permit in all districts, except that Highland Station District, is regulated under Section 9.05.G, Signage Guidelines. The following signs are allowed provided that no sign shall be located within or overhanging any right-of-way, or located in a manner that distracts or obstructs the vision or movement of motorists or pedestrians:

- A. *Time and temperature signs.* Signs giving time or temperature shall be permitted when included on a permitted sign.
- B. *Name and/or address signs.* One (1) address sign is required per building entrance as required in the Fire Code. In non-residential districts, such sign may also include the occupant's name. Such sign shall not exceed two (2) square feet in area and comply with the standards set forth below:
  - 1. Name and address sign in residential districts can be wall mounted or freestanding.
  - 2. Address signs in non-residential districts can be wall mounted or may be mounted flat against the permitted freestanding sign support structure. An address sign may not be used to increase sign area.
- C. *Window signs.* Window signs are restricted so as to provide for clear and unobstructed view to the interior of the building by public safety personnel.
  - 1. Non-illuminated window signs shall be permitted in non-residential districts on the glass area of street-facing, ground floor windows. Such signs shall not exceed seventy-five percent (75%) of the total area of such windows, provided further that the transparent glass serves as the background of the sign (e.g. vinyl or painted letters and graphics applied directly to the glass).
  - 2. Window signs are restricted to no more than thirty-five (35%) percent of the glass area of street-facing, ground floor windows, where an opaque background is utilized (e.g. paper or solid painted background on window glass).
  - 3. One illuminated open/close sign shall be permitted provided that the sign shall not be greater than two (2) square feet and shall not flash or blink or include other animation. This signage counts towards the allowable maximum signage.

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- D. *Non-illuminated parking area directional and related signs.* Non-illuminated signs which indicate the direction of traffic flow within parking or loading areas where no parking is permitted, handicap accessible parking spaces, and other similar information are subject to Planning Commission approval pursuant to Article 5, Site Plan Review. Freestanding or wall mounted directional signs shall not exceed three (3) square feet in area or three (3) feet in height and shall contain no advertising.
- E. *Historical markers.* Historical markers awarded by local, state or federal historic preservation organizations may be placed on the historical structure or property.
- F. *Temporary signs.* The following temporary signs shall be permitted provided they are not located within any or over hanging any road, pedestrian or public right-of-way, or erected in any manner that may present a traffic hazard or public safety issue. All temporary signs shall comply with the standards set forth below:
1. *Size of temporary signs.* The total aggregate sign area of all temporary signs on any one site shall not exceed twelve (12) square feet in area.
  2. *Height of temporary signs.* Maximum height of three (3) feet for a freestanding sign. Maximum height for a wall mounted sign is no higher than the wall on which it is mounted.
  3. *Location of temporary signs.*
    - a. Temporary signs shall not be located closer than fifteen (15) feet to the edge of the traveled portion of the roadway.
    - b. Temporary signs cannot be placed or constructed so as to create a hazard of any kind.
    - c. Temporary signs shall not be placed on a public sidewalk.
    - d. Prior to the erection or placement of a temporary sign, the permission of the property owner where the sign is to be located must be secured.
    - e. Signs shall be located so as to comply with the clear vision requirements of Section 11.05, Clear Vision Area.
  4. *Time limitations for temporary signs.* Each temporary sign shall be removed at the termination of the event, party, sale or lease based upon the purpose of the sign.
  5. *Types of temporary signs.* The following types of temporary signs are permitted:
    - a. On-site real estate sign advertising the building or parcel for sale, rent or lease.
    - b. On-site sign advertising an on-going garage, estate or yard sale provided the sale has a valid registration, permit or license.
    - c. Off-site sign for the purpose of providing direction to another premise that is having a garage, estate or yard sale as long as the dates of the sale are clearly indicated on the sign provided the sale has a valid registration, permit or license.
    - d. On-site sign for the purpose of advertising a graduation party, open house or similar family party.
    - e. Off-site sign for the purpose of providing direction to another premises that is having a graduation party, open house or similar family party as long as the dates of the activities are clearly indicated on the sign.
    - f. Non-commercial signs, which contain non-commercial informational or directional messages.
    - g. Political signs.

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- h. Election signs.
  - i. Holiday, patriotic or religious seasonal signs or displays.
  - j. Construction signs for a single family residential building under construction or repair but only for the duration of a valid building permit.
  - k. Off-site civic/charitable special event signs.

G. *Exception.*

1. Temporary commercial signs. The intent is to allow one small temporary sign to advertise commercial information of an individual business near the doorway entrance to attract customers from adjacent businesses and parking lots. Signs in the HS Highland Station District are regulated in Article 9.05.H, Signs.
2. One (1) non-illuminated temporary sign is permitted in front of each commercial business except those businesses located in the Highland Station district shall comply with Section 9.05.G, Signage Guidelines. The temporary commercial sign may only be placed in accordance with the following standards:
  - a. One temporary commercial sign may be placed within five (5) feet from the doorway of the represented business and must be at least ten (10) feet from all other temporary signs. Such sign may be placed on an interior sidewalk as long as a width of at least five (5) contiguous feet of sidewalk is maintained for clearance between the sign and any permanent fixture, such as the building, light pole or curb.
  - b. A temporary commercial signs shall not exceed eight (8) square feet in area and four (4) feet in height.
  - c. A temporary commercial sign shall have one (1) or two (2) faces only.
  - d. A temporary commercial sign shall be constructed using high-quality materials and be sufficiently rigid and weighted for stability to ensure the safety of pedestrians.
  - e. A temporary commercial sign under this Section shall be maintained in good condition.
  - f. Temporary commercial signs shall be removed each day prior to the close of business.

( Ord. No. Z-005, § 6, 3-11-2015 )

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## Sec. 14.07. Signs allowed by permit.

The following types of signs are permitted as specified in this Section and shall require approval from the Zoning Administrator and permits from the Building Official:

- A. *Agricultural retail signs.* Agricultural retail signs are temporary signs intended to be used by Highland Township farm owners and farm owners in adjoining communities for agricultural purposes as defined in the Right to Farm Act and on which products are grown, raised, produced and sold to the general public on a seasonal basis. Freestanding signs with one (1) or two (2) faces shall be permitted subject to the following regulations:
1. A maximum of four (4) signs are permitted per farm market, per seasonal sign display in addition to permissible permanent sign(s) erected on the farm market site as provided under Section 14.07.H and/or 14.07.I. Each farm market is entitled to place one (1) temporary sign per offsite parcel with a maximum of four (4) temporary signs throughout the Township during any seasonal sign display period. The applicant must have the written approval of the property owner of the parcel on which the sign is to be located.
  2. Agricultural retail signs shall not exceed six (6) feet in height or thirty-two (32) square feet per face.
  3. Farm markets are permitted up to four (4) seasonal sign displays per year provided there is a twenty-five (25) day time lapse between each seasonal sign display period unless an alternate schedule is approved by the Planning Commission as part of a Special Use Approval. All signs must be removed within sixty (60) days after the issuance of the permit.
  4. Agricultural retail signs must be located at least twenty (20) feet from the edge of the traveled portion of the roadway and must not be located in the Clear Vision Areas as provided in Section 11.05.
- B. *Development construction signs.* One (1) freestanding sign listing persons or firms connected with construction work being performed on a development project shall be permitted. Such signs shall not exceed thirty-two (32) square feet in area, a height of six (6) feet, and be must be removed upon the completion of site construction.
- C. *Real estate signs offering units of lots for sale of lease in development.* One (1) freestanding sign offering lots or units for sale of lease shall be permitted in common space or on a lot adjacent to the entrance to subdivision, condominium or multiple tenant development. Such signs shall not exceed thirty-two (32) square feet in area and a height of six (6) feet. Only one sign per development shall be permitted except where entrances are separated by an excess of one thousand (1000) feet measured along the road frontage. Such signs shall be permitted for one (1) year from issuance, with extensions permitted only if the progress of the development complies with the approved development agreement.
- D. *Directory signs.* For non-residential districts, one (1) wall mounted directory sign which identifies only the names and locations of occupants within a building that has only a common entrance is permitted. Directory signs shall be in addition to the permitted wall mounted signs under this Article. The directory sign shall not exceed twelve (12) square feet in area or six (6) feet in height.
- E. *Drive-through menu boards.* Two (2) menu boards for a drive-in or drive-through restaurant shall be permitted in addition to other signs permitted under these regulations. Such signs shall not exceed ten (10) feet in height from finished grade, shall be a minimum of 20 foot from side yard lot lines and shall not be located in any required front yard. The menu board must be oriented towards the drive through lanes and/or windows. The menu board text may not be legible from road right of ways.



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- F. *Illuminated entrance or exit signs.* One illuminated entrance or exit sign located at the entrance or exit to a non-residential parcel shall not exceed four (4) square feet each or exceed a height of three (3) feet. Advertising shall not be permitted on entrance or exit signs.
- G. *Temporary commercial special event signs.* The following temporary commercial special event signs shall be permitted provided they are not located within or overhanging any road, pedestrian or public right-of-way, or erected in any manner that may present a traffic hazard. All temporary commercial special event signs shall comply with the standards set forth below:
1. *Size of Temporary Commercial Special Event Signs.* A temporary commercial special event sign shall not exceed sixteen (16) square feet in area.
  2. *Height of Temporary Commercial Special Event Signs.* A temporary commercial special event sign shall not exceed five (5) feet in height.
  3. *Location.*
    - a. A temporary commercial special event signs shall not be located closer than fifteen (15) feet to the edge of the traveled portion of the roadway.
    - b. Temporary commercial special event signs shall not be located within any road right-of-way or clear vision area.
    - c. On the parcel where the special event is being held.
  4. *Number.*
    - a. One sign at a time per parcel in the OS Office Service District, C-1 Local Commercial, C-2 General Commercial, HS Highland Station, TR Technology Research, IM Industrial Manufacturing,
    - b. In the case of multi-tenant buildings, only one (1) temporary sign shall be permitted at a time per parcel, and must comply with the standards of the Zoning Ordinance.
  5. *Types of temporary commercial special event signs.* The following types of temporary commercial special event signs are permitted:
    - a. *Periodic temporary commercial sign.* One periodic temporary commercial sign shall be permitted for up to fourteen (14) days no more than six (6) times per year per business.
    - b. *Grand opening signs/displays.*
      - i. One (1) grand opening sign/display, including inflatable items, announcing the opening of a new business or change in ownership of an existing business shall be permitted. Such signs shall be permitted for forty-five (45) days within the first six (6) months of the opening of the new business or change in ownership.
      - ii. All grand opening signs/displays must be set back a minimum of fifteen (15) feet from any road right-of-way. Inflatable items must be set back a minimum of ten (10) feet plus one (1) foot for every one (1) foot of height of the inflatable. The Zoning Administrator shall review all proposed items to determine if the size and placement are suitable for the health, safety and welfare of the residents of Highland Township.
    - c. *"Coming Soon" signs.* One (1) sign or banner announcing the anticipated opening of a new business may be permitted, provided the land use permit has been issued. Such signs must be set back a minimum of fifteen (15) feet from any road right-of-way. Such signs may be permitted for a period not to exceed thirty (30) days.

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6. *Exception; civic charitable special event signs within public road rights-of-way.* The intent of this Section is to allow civic, benevolent, religious, cultural or charitable organizations special event signage to promote community wide festivals, free concerts or fundraisers.
    - a. Civic Charitable Special Event Signs may extend into or over the public road right-of-way provided that approval by Resolution of the Township Board is granted and the appropriate permits from the Road Commission for Oakland County and/or Michigan Department of Transportation have been secured.
    - b. Such signs may be erected or displayed not to exceed fourteen (14) days prior to the event and must be removed within forty-eight (48) hours after the event.
    - c. A civic, benevolent, religious, cultural or charitable organization which holds a number of events throughout the year may apply for an annual temporary sign permit and shall provide a list of their events and the date(s) of each event.
- H. *Changeable copy signs.*
1. Changeable copy signs may be permitted when incorporated into a permitted wall mounted or freestanding sign provided that the area devoted to changeable copy does not exceed seventy five percent (75%) of the permissible sign area and comply with the following standards.
  2. Electronic changeable copy is permitted, provided the following regulations are met:
    - a. There shall be no scrolling, flashing, intermittent movement or animation.
    - b. Only text is permitted on electronic changeable copy signage. Display of graphics is strictly prohibited.
    - c. Electronic changeable copy must remain static and only change messaging in one (1) minute intervals or less frequently.
- I. *Freestanding signs.*
1. All freestanding signs shall comply with the dimensional requirements in Table 14.2, Permitted Freestanding Signs.
  2. Within all nonresidential zoning districts, except the Highland Station District, only one (1) freestanding sign shall be permitted per parcel.
  3. Within all residential zoning districts, only one (1) freestanding sign shall be permitted as follows:
    - a. At the primary entrance for the purpose of identifying a subdivision, site condominium, multiple family development, or Mobile Home Park.
    - b. One (1) additional freestanding sign may be permitted at a secondary entrance if it is not located on the same street as the primary entrance.
    - c. Only one (1) freestanding sign shall be permitted per lot for the purpose of identifying a nonresidential special land use and permitted farming activities.
  4. Within all PUD districts/developments, additional freestanding signs identifying the name of the project, or the names of sub-area(s) within the project, with distinct land use(s) may be approved, subject to the review and approval by the Planning Commission. Such signs shall be limited to forty (40) square feet and a height of eight (8) feet.
  5. All freestanding signs shall meet the height and area requirements in Table 14.2, Permitted Freestanding Signs.

6. The ratio of the width to height or height to width of the sign face at the widest and highest points shall not exceed three (3) to one (1).
7. All freestanding signs shall carefully coordinate with proposed landscaping improvements and existing signs to prevent obstruction now or in the future.
8. For a freestanding sign, the sign face, its support structure and all decorative elements must be contained within one (1) theoretical rectangle of not more than one hundred (100) square feet. Decorative elements may extend two (2) feet higher than the maximum allowable sign height, provided they are still contained within the theoretical rectangle and contain no text or graphics other than the street address. The design of the sign and its placement shall be such as to not unreasonably restrict the sight lines of drivers entering or exiting the property.

Maximum height and area requirements for freestanding signs shall be applied within each zoning district according to the following schedule:

9. In addition to the allowable signage provided in Table 14.2, Permitted Freestanding Signs, one (1) gasoline price sign shall be permitted per gas station. Said sign shall not exceed twelve (12) square feet in area per side. It shall be affixed to a permanent sign structure or to a building and shall not be located closer than twenty (20) feet to any side property line. The price sign shall not be included in the total area of signage otherwise permitted. The price sign may be an electronic changeable copy sign, subject to the provisions of Section 14.07.H.2. Changeable copy signs.

TABLE 14.2. PERMITTED FREESTANDING SIGNS

District	Maximum Height (Feet)	Maximum Area Per Face (Square Feet)	Side Lot Line Setback (Feet)	Road Right of Way Setback (Feet)
ARR Agricultural Residential District	4	32	20	10
R-3 Single Family Residential District	4	32	20	10
R-1.5 Single Family Residential District	4	32	20	10
LV Single Family Residential District	4	20	20	10
RM Multiple Family Residential District	4	32	20	10
MH Manufactured Home Park	4	32	20	10
OS Office Service District	6*	36*	20	10
C-1 Local Commercial District	6*	36*	20	10
C-2 General Commercial District	6*	36*	20	10
HS Highland Station District	See Section 9.05.H			
TR Technology and Research District	6*	36*	20	20
IM Industrial Manufacturing District	6*	36*	20	20

\*Multiple Tenants, three (3) or more tenants, are allowed freestanding signs with a maximum height of eight (8) feet and a maximum area of forty (40) square feet.

J. *Wall mounted signs.*

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1. Maximum allowable area for all nonresidential wall mounted signs shall be two (2) square feet for every one (1) lineal foot of building measured along the primary face. This allowable signage may be divided among multiple signs located on the primary face of the building. In multi-tenant buildings, the allowable sign area for each tenant shall be proportional to the width of the suite or unit occupied by that tenant business, measured along the primary face.
  2. A portion of the allowable wall mounted signage may be allocated to signs on other faces of the building that front public or private road rights-of-way, provided the parcel directly abuts that road (e.g. corner lots). The signage applied to a non-primary face of the building shall not exceed ten percent (10%) of that face.
  3. Signs placed on faces of the building that do not front public or private road rights-of-way may not be internally illuminated.
  4. Within all PUD districts/development, the number and size of wall mounted signs shall be determined by the intended use of the parcel, subject to the review and approval of the Planning Commission.
  5. No wall mounted sign shall be erected to extend above the top of the wall or beyond the ends of the wall to which it is attached. Signs erected on the vertical portion of a mansard roof are considered to be wall mounted signs. Awning or canopy signs may wrap around the corner of a building if in compliance with other Ordinance requirements.
  6. The vertical dimension of a wall mounted sign shall not exceed six (6) feet.
  7. Wall mounted signs must be attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of the wall from which it is attached. This limitation shall not apply to canopy or awning signs provided that any sign located on a canopy or awning shall be affixed flat to the vertical face of the canopy or awning.
  8. All wall mounted signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall mounted sign be secured with wire, strips of wood or nails.

( Ord. No. Z-005, § 6, 3-11-2015 )

## **ARTICLE 15. NATURAL FEATURES PRESERVATION**

### **Sec. 15.01. Intent.**

- A. These natural features preservation regulations are intended to provide for a balance between reasonable and responsible use of the land and protection of Township natural resources and features. These regulations are further intended to advance environmental stewardship goals identified in Township-wide, watershed-wide, and regional planning efforts such as, but not limited to, the Highland Township Master Plan, the Shiawassee/Huron Headwaters Resource Preservation Project, the Kent Lake/Upper Huron River Watershed Management Plan and similar applicable watershed plans, and the Highland Township Green Infrastructure Plan.

This ordinance encourages and promotes the conservation and preservation of significant and sensitive natural features on properties within Highland Township. Significant and sensitive natural features shall include but not be limited to; lakes, streams, wetlands, flood plains, natural drainage courses, significant woodlands and lands containing significant trees and vegetation, lands with steep slopes and significantly varying topography habitat of rare or endangered animal or plant species and other significant existing natural land features.

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This ordinance is further intended to promote low impact development design principles that encourage responsible stewardship of natural resources and which result in facilities that are visually complementary to a natural setting. This Ordinance provides the flexibility to allow functionally equivalent alternatives for street design, stormwater management, and similar site elements, provided that the resultant design minimizes the detrimental impacts associated with development and mitigates those impacts where feasible, thus securing the benefits of natural areas for the community. The Low Impact Development Manual for Michigan published by the Southeast Michigan Council of Governments (SEMCOG) provides guidelines and examples of best management practices for consideration of designers and developers.

The process through which the Planning Commission shall evaluate site plans to ensure that the design furthers the objectives described above includes:

- a) Identification of natural features and documentation through the Natural Resources Inventory and Stewardship Plan.
- b) Evaluation of impacts on natural systems through review of the Natural Resources Inventory and Stewardship Plan.
- c) Consideration of alternative design approaches to reduce or mitigate detrimental impacts.

### **Sec. 15.02. Natural features inventory and stewardship plan.**

- A. *Where required and applicability.* This ordinance applies and is required for all parcels of land and developments subject to site plan review.
- B. *Submission requirements.* The petitioner shall provide a natural features inventory and stewardship plan which identifies, locates and inventories all significant natural features. The scope and content of the plan shall be appropriate for the scale and complexity of the proposal and its potential impact on natural features (e.g., it is sufficient to illustrate the overall tree canopy outline where development is limited to non-wooded areas of the site, whereas individual specimen trees shall be identified where development encroaches on a mature woodlot). The site plan, plat or plot plan shall include, at minimum, indications of the various natural areas on the site, including overall tree canopy, wetlands limits, steep slopes and floodplain areas, as well as a written statement explaining how each natural area functions in relation to other natural features on or near the site. The Planning Commission may require additional information as necessary to evaluate the impacts of the proposed development.

The applicant is encouraged to consult with a recognized land conservancy during preparation of the plan. The plan should note which, if any, land conservancies were consulted, and show locations and conditions of any conservation easements that have been executed or are contemplated.

- C. *Plan content.* The Natural Features Inventory and Stewardship Plan shall include the following information:
  1. The inventory/plan shall be presented on a base map drawn to the same scale as other pages of the site plan submittal. An aerial photograph should be utilized as the base map.
  2. The plan shall include a delineation of wetlands, ponds, streams, lakes or other water bodies and an indication of which areas are protected under Part 303 of Public Act 451 of 1994, the Natural Resources and Environmental Protection Act, as well as an estimate of the area (in square feet), and a description of the wetlands quality and function.
  3. The plan shall indicate boundaries of floodplain areas as identified in the Flood Insurance Study, Highland Township, prepared by the Federal Emergency Management Agency (FEMA).
  4. The plan shall indicate general soils classifications across the site from the soil survey of Oakland County, Michigan, published by the United States Department of Agriculture (USDA), or onsite soils

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tests. The plan shall indicate areas of poor permeability, high erosion potential or other characteristics relevant to an understanding of the function of natural systems across the site.

5. The inventory shall provide location of all trees affected by the proposed development which are six (6) inches or greater diameter at breast height (DBH), including the canopy of any off-site trees that overhang property lines, and trees located within adjacent rights-of-way or in utility easements. The inventory shall list the common and botanical names of each tree, with their size in inches at DBH and general condition. For areas of the site that will not be disturbed by construction activity, an overall tree canopy outline shall suffice.
  6. Any tree exceeding eighteen (18) inches DBH shall be numbered with non-corrosive tags bearing that number attached to each respective tree.
  7. Clearing limits for tree masses must be shown on the plan, as well as the proposed treatment of isolated trees six (6) inches or greater (remove, relocate or remain) located outside a tree mass.
  8. Grading limits must be shown on the plan, including cross-sections across any areas to be retained by walls. The stewardship plan should also identify areas where topsoil will be stored during construction, or any areas to be cleared and used for stockpile of materials during construction.
  9. If existing trees are to be relocated, the proposed location for such trees shall be shown, with a statement as to how such trees are to be protected and/or stored during land clearance and construction and how they are to be maintained after construction.
  10. The plan shall disclose the presence of any threatened or endangered species observed on site.
- D. *Approval process and review criteria.* The Planning Commission shall review all site plans in consideration of Section 5.04, Standards For Site Plan Approval. For sites which are required to submit a Natural Features Inventory and Stewardship Plan, the Planning Commission shall further consider the impact of proposed design elements, and the value of conserving or preserving existing significant natural features or sensitive features as per the intent and purpose of this ordinance. Such consideration shall include:
1. Woodlands and significance of trees and vegetation by reason of quantity, location, size and species.
  2. Lakes, streams, wetlands, flood plains and natural drainage courses.
  3. Habitat of animals and plants and impacts upon wildlife and plant habitat.
  4. Topography, existing slopes, hills, prairies, etc.
  5. Visual impact of existing natural features and the preservation and promotion of natural vistas and views harmonious with the rural character of Highland Township.
  6. Other existing natural features that are significant and unique to a particular parcel of land.
  7. Comparison to the natural features inventory study (MNFI) and the Highland Green Infrastructure Plan using these as general guidelines for evaluation.

### **Sec. 15.03. Stormwater management.**

- A. *Purpose.* The purpose of this Ordinance is to encourage the use of structural, vegetative or managerial practices, commonly referred to as best management practices (BMP's), designed to treat, prevent, or reduce degradation of water quality due to storm water runoff. All development projects subject to site plan review shall be designed, constructed, and maintained using best management practices (BMP's) to prevent flooding, protect water quality, reduce soil erosion, maintain and improve wildlife habitat, and contribute to the aesthetic values of the project. The particular facilities and measures required onsite shall reflect and incorporate existing grade, natural features, wetlands and watercourses on the site to the maximum extent feasible.

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- B. *Stormwater management.* All stormwater management plans shall meet the Engineering Design Standards adopted by the Township, and shall utilize nonstructural control techniques to the maximum extent feasible, including, but not limited to:
1. Limitation of land disturbance and grading;
  2. Maintenance of vegetated buffers and natural vegetation;
  3. Minimization of impervious surfaces;
  4. Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined swales
  5. Use of infiltration devices.
- C. *General standards.*
1. Sites shall be designed and managed utilizing Low Impact Development techniques to emulate the natural water cycle, and maintain local and regional hydrologic patterns. The Low Impact Development Manual for Michigan, published by the Southeast Michigan Council of Governments (SEMCOG) provides guidance for the designer and developer.
  2. Stormwater management systems shall be designed to prevent flooding and the degradation of water quality related to stormwater runoff and soil erosion from proposed development.
  3. All new development and redevelopment of properties shall include on-site storage of stormwater. Facilities shall be designed to provide a volume of storage and discharge rate which meets the standards of the Township. A project may be exempted from the onsite storage requirement upon finding that an acceptable natural drainage outlet is available or storage capacity has been provided offsite and that all necessary drainage easements have been acquired.
  4. Priority shall be placed on site design which maintains natural drainage patterns and watercourses. Alternations to natural drainage patterns shall not create flooding or degradation of water quality for adjacent or downstream property owners.
  5. The use of swales and buffer strips vegetated with desirable native materials is encouraged as a method of stormwater conveyance so as to decrease runoff velocity, allow for bio-filtration, allow suspended sediment particles to settle and to remove pollutants. Tolerance for water saturation, sunlight, pesticides, metals, and salts shall be required in determining appropriate plantings in these areas.
  6. Where large amounts of grease and oil may accumulate, as in the case of commercial/industrial developments and large areas of impervious surfaces for parking, oil separators shall be required.
  7. For sites that store or use chemicals, a spill response plan shall be submitted and approved by the Township.
- D. *Use of wetlands.* Wetlands may be used for stormwater management if all the following conditions are met:
1. Wetlands shall be protected from impairment due to the discharges of stormwater. Measures shall be taken to reduce erosive velocities of stormwater and to remove sediment and other pollutants prior to discharge to a wetland.
  2. Wildlife, fish or other beneficial aquatic organisms and their habitat within the wetland will not be impaired.
  3. The wetland has sufficient holding capacity for stormwater, based upon calculations prepared by the proprietor and reviewed and approved by the Township.
  4. On-site erosion control shall be provided to protect the natural functioning of the wetland.

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5. Provisions approved by the Township shall be established so as to insure that the wetland is not disturbed or impaired in the future relative to the needed storage capacity.
  6. Applicable permits shall be obtained from the Michigan Department of Environmental Quality or appropriate federal agency.
- E. *Maintenance.* For stormwater management systems serving more than one office, commercial or industrial structure and for systems serving more than one residential unit, a maintenance agreement shall bind the owners of all lots, parcels and condominium units with access to the stormwater management system, including their successors and assigns. The maintenance agreement must include the following minimum information:
1. A restrictive covenant shall be included in the maintenance agreement establishing the responsibility for operating and maintaining the stormwater management system on all lots and parcels to be serviced by the system. Such restrictive covenant shall further grant to Highland Township an easement for the purpose of providing for the installation, operation, inspection, and maintenance of stormwater management systems. The agreement shall grant to Highland Township the right, but not the obligation, to inspect and repair said stormwater management system at the expense of the owners of property served by the system. The Township shall have the sole discretion whether to create a special assessment district under the agreement. If the Township elects to repair a private stormwater management system, the agreement shall provide for the establishment of a special assessment district to defray all costs incurred in repairing the system. The agreement shall provide that all current and future owners agree that they are waiving all rights to challenge all aspects of the special assessment district. In addition, the owners and all future owners agree that the maintenance agreement shall be deemed a petition or an adjunct to a petition by the property owners for a special assessment district, if such a petition is legally required.
  2. A provision for an incorporated association of co-owners served by the stormwater management system, which shall be responsible to collect fees and to maintain the sanitary sewer system.
  3. A feasible and practical method for financing the repair, improvement, and maintenance of the stormwater management system in compliance with this ordinance. The maintenance agreement shall include an explicit clause advising all current and future parties to said agreement that neither Highland Township nor any other public agency is obligated to perform regular inspections of the easement area or provide repairs, improvements or maintenance to the private system.

## **ARTICLE 16. NON-CONFORMING USES AND STRUCTURES**

### **Sec. 16.01. Intent.**

- A. It is the purpose of this Article to provide regulations governing lots, buildings, structures and uses which were lawful prior to the enactment of this Ordinance, or amendments thereto, but which are prohibited, regulated, or restricted under the provisions of this Ordinance.
- B. It is the intent of this Article to permit these buildings, structures and uses to continue, but not to encourage their prolonged existence. Because such non-conforming lots, buildings, structures and uses prevent full realization of the goals and objectives of this Ordinance, the spirit of this Ordinance is to reduce and eliminate such nonconformance.
- C. The standards of this Article are intended to accomplish the following:
  1. Eliminate non-conforming uses which are considered to be incompatible with permitted uses and encourage redevelopment into more conforming uses.



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2. To prohibit the expansion of non-conforming uses, buildings and structures.
  3. Permit legal non-conforming buildings, structures or uses to remain until they are discontinued or removed.
  4. Encourage investment in surrounding neighborhoods by bringing non-conforming structures into compliance with this Ordinance.
  5. Encourage upgrading of site elements such as site landscaping, parking, paving, signage, access, pedestrian circulation or other features of a site which were developed in compliance with the standards at the time of construction, but which do not meet current site standards.
  6. Encourage combination of contiguous non-conforming lots of record to create lots which conform to current standards, are compatible with other lots in the appropriate zoning district, to promote public health, safety and welfare and to eliminate problems associated with over-crowding.
- D. It is not the intent of this Ordinance to require a change in plans, construction or designated use of any building which was constructed or under construction prior to the effective date of adoption or amendment of this Ordinance provided substantial construction has occurred and the developer demonstrates diligent progress towards final site completion.
- E. The authorization for nonconformities that were legally established prior to enactment or amendment of this Ordinance to continue shall not apply to building structures or uses which were not legally established prior to the enactment or amendment of this Ordinance.

### **Sec. 16.02. Non-conforming lots.**

- D. *Use of non-conforming lots.* Contiguous non-conforming lots must be combined when under the same ownership. If the owner of a non-conforming lot does not own and cannot reasonably acquire sufficient land to conform to the Ordinance requirements for lot area and/or width, a principal building may be erected provided all other standards of this Ordinance are met.
- E. *Division of lots restricted.* No lot or parcel shall be divided in such a way as to create a non-conforming lot or to increase the degree of nonconformance already in existence.

### **Sec. 16.03. Non-conforming uses.**

A lawful use of a building, land or of a building and land in combination, that existed prior to the effective date of this Ordinance, or amendment thereto, that is no longer permissible under the provisions of this Ordinance, shall be considered a non-conforming use. These non-conforming uses may be continued so long as they remain otherwise lawful, subject to the following limitations:

- A. *Not increased.* Non-conforming uses shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption of or amendment of this Ordinance.
- B. *Not expanded.* The existing structure devoted to a non-conforming use shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located, or to bring the structure into greater conformity with the Ordinance. The addition of a second story on an existing non-conforming structure shall be considered an expansion.
- C. *Not moved.* Non-conforming uses shall not be moved in whole or in part to any other portion of the lot or parcel other than that portion of the lot in use at the effective date of adoption or amendment of this Ordinance.

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- D. *Change in use of a structure.* If no structural alterations are made, any non-conforming use of a structure may be changed to another non-conforming use provided that the Zoning Board of Appeals finds that the proposed use is more in conformance with the district regulations than the existing non-conforming use and if the use is of the same or lesser intensity than the existing non-conforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance.
  - E. *Repairs and modernizations to buildings or structures associated with non-conforming uses.* Repairs and modernizations of structures which are utilized by non-conforming uses may be made provided that such repairs or modernizations do not intensify the extent of the non-conforming use, and provided that such repairs and modernizations do not, within any twelve (12) month period, exceed fifty (50%) percent of the assessed value of the subject structure.
  - F. *Change to a permitted use.* Once a land use is changed from non-conforming use to a permitted use, the non-conforming use may not be reestablished or resumed. For parcels currently occupied with a non-conforming single-family residential use, such use may continue, in addition to a permitted conforming use, as long as the dwelling is continually occupied.
  - G. *Abandoned non-conforming use.* A non-conforming use that has been intentionally abandoned for a period of twelve (12) months or more shall not be reestablished. The intent to abandon a use may be established by one or more of the following factors:
    - 1. Utilities, such as water, gas and electricity to the property have been disconnected.
    - 2. The property, building, or grounds have fallen into disrepair.
    - 3. Signs or other indications of the existence of the non-conforming use have been removed.
    - 4. Equipment of fixtures necessary for the operation of the non-conforming use have been removed.
    - 5. Other actions, which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the non-conforming use.
    - 6. Those alleged non-conforming uses which have not been legally established prior to the effective date of this Ordinance shall be declared illegal and shall be discontinued following the effective date of this Ordinance.
  - H. *Removal of structure.* Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
  - I. *Subdivision of land prohibited.* No land that accommodates a use nonconformity shall be subdivided.

( Ord. No. Z-010 , § 5, 10-11-2017)

#### **Sec. 16.04. Non-conforming special land uses.**

A lawful special land use that existed prior to the effective date of this Ordinance shall be considered a non-conforming use if no longer permitted by this Ordinance.

#### **Sec. 16.05. Non-conforming buildings and structures.**

A structure or building lawfully constructed prior to the effective date of this ordinance that does not conform with the requirements of the district in which it is situated is considered a non-conforming building or

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structure. These non-conforming buildings or structures may be maintained so long as they remain otherwise lawful, subject to the following limitations:

- A. A non-conforming building or structure may not be enlarged or altered in any way that increases its nonconformity, except as provided for in this Section.
- B. An existing building may be enlarged so long as the enlargement does not increase any existing encroachment of the building on required setback lines. Such enlargement may extend between the building and the required setback line so long as it does not extend closer to the front, side or rear property lines than does the existing building.
- C. Should a non-conforming building or structure be destroyed by any means to an extent that the cost of reconstruction or restoration is greater than fifty percent (50%) of its assessed value at the time of destruction shall not be reconstructed except in conformance with this Ordinance.
- D. Should a non-conforming building or structure be damaged by any means to an extent that the cost of reconstruction or restoration is equal to or less than fifty percent (50%) of its assessed value at time of damage, reconstruction or restoration shall be permitted, provided a building permit for the necessary work is issued within one (1) year of the occurrence of such damage.
- E. Should a non-conforming building or structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- F. Should a non-conforming building or structure be altered or modified so as to eliminate, remove or lessen any or all of its non-conforming characteristics, then the non-conforming characteristics shall not be later reestablished.
- G. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any Official charged with protecting the public safety, upon order of such Official.

( Ord. No. Z-006, § 4, 10-14-2015 )

### **Sec. 16.06. Lots with non-conforming site improvements.**

- A. Lots that do not meet current standards for parking, loading, access, landscaping, lighting or other site improvements required under the provisions of this Ordinance are considered non-conforming. No building or structure shall be constructed, enlarged or altered in any way so as to create a new nonconformance or to enlarge an existing non-conformance.
- B. For any change of use, the Zoning Administrator may require that all elements of the site be brought into compliance with the provisions of this Ordinance prior to approving a change of use.
- C. For any change in a building, structure or use that requires site plan or special land use approval, the Planning Commission shall require that all elements of the site be brought into compliance with the provisions of this Ordinance.
- D. The Zoning Board of Appeals may permit improvements and minor modifications to a conforming use and/or building which does not meet all of the various site improvements related to the regulation of this Ordinance, in order to facilitate a gradual move towards compliance with site related requirements, provided the following conditions are satisfied:
  - 1. The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion.
  - 2. The applicant has addressed safety related site issues on the overall site.

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3. The improvements or minor expansion will not increase any noncompliance with site requirements.
  4. All driveways that do not conform with access standards of this Ordinance shall be eliminated, provided reasonable access shall be maintained, as outlined in Article 11, Access Management, Parking and Circulation.

**Sec. 16.07. Change of tenancy or ownership.**

There may be change of tenancy, ownership or management of any existing non-conforming uses of land, of structures or of structures and land in combination.

**Sec. 16.08. Purchase or condemnation of non-conforming uses.**

The Township may acquire, by purchase, condemnation or otherwise, private property or an interest in private property for the removal of non-conforming uses. The cost and expense, or a portion thereof, may be paid from general funds or assessed to a special district in accordance with applicable state law. The elimination of the non-conforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The Township may institute and prosecute proceedings for condemnation of non-conforming uses and structures under procedures established by applicable state law.

***ARTICLE 17. ZONING BOARD OF APPEALS***

**Sec. 17.01. Board established.**

A Zoning Board of Appeals, hereinafter referred to as the Board of Appeals, is hereby established, in accordance with Act 110 of the Public Acts of 2006, as amended, and in such a way that the objectives of this Zoning Ordinance shall be observed, public health, safety and welfare secured, and substantial justice done. The Zoning Board of Appeals is established to ensure that the objectives of this Ordinance may be more fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, and that reasonable flexibility be provided in the application of this Ordinance.

**Sec. 17.02. Membership and terms.**

- A. The Board of Appeals shall consist of seven (7) permanent members appointed by the Township Board. The first member shall be a member of the Township Planning Commission. The remaining members shall be selected from the electors of the Township. One (1) regular member may be, but need not be, a member of the Township Board other than the Supervisor. The members selected shall be representatives of the population distribution and of the various interests present in the Township. An elected officer of the Township shall not serve as chairperson of the Board of Appeals.
- B. An employee or contractor of the Township Board may not be a member or employee of the Board of Appeals.
- C. The Township Board may appoint no more than two (2) alternate members of the Zoning Board of Appeals who shall serve as a member of the Zoning Board of Appeals upon the call of the Chairperson when a regular member is absent from or unable to attend one (1) or more meetings. An alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for the reason of a conflict of interest. The alternate member having been appointed shall serve on the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals in those cases in which the alternate

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member serves. Appointments of alternate members for the first year shall be for a period of one (1) and two (2) years respectively; thereafter, each alternate member shall hold office for a full three (3) year term.

- D. Members of the Board of Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after public hearing. A member shall disclose when there is or may be a conflict of interest. Failure of a member to disclose that there is or may be a conflict of interest to allow the Board to disqualify that member from a vote shall constitute misconduct in office.
- E. The term of each member shall be three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board respectively, and the period stated in the resolution appointing them. A successor shall be appointed within one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- F. The Board of Appeals shall not conduct business unless a majority of the members of the Board are present.

### **Sec. 17.03. Rules and procedures for the Board of Appeals.**

- A. *Rules.* The Board of Appeals shall adopt bylaws to govern its procedures. The Board of Appeals shall elect a Chairperson, Vice-Chairperson, and Secretary from its membership at its first meeting following January 1 of each year. The officers shall serve until successors are elected.
- B. *Votes.* A concurring vote of a majority of the members of the Board of Appeals shall be necessary for any decision.
- C. *Representation.* Any person(s) may appear on his/her behalf at a hearing or may be represented by an agent or attorney.
- D. *Time limit.* The Board of Appeals shall decide upon all matters within a reasonable time. The decision of the Board of Appeals shall be in the form of a motion containing a full record of its findings and determinations in each case. The time limit may be extended by written agreement between the applicant and appellant and the Board of Appeals.
- E. *Meetings.* Meetings of the Board of Appeals shall be held at the call of the Chairperson and at such times as the Board in its rules and regulations might specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions of approval, facts, or other relevant factors, and all its official actions. The vote of each member upon a question, or a member's absence or abstention, shall be recorded into the minutes of the meeting. All meetings and records shall be open to the public. All records of meetings shall be filed in the office of the Township Clerk.
- F. *Public hearings and notification.* The Board of Appeals shall hold a public hearing on each question submitted to it for decision. As a general rule, notice shall be given to all owners of record of property and to occupants of all single-family and two-family dwellings within three hundred (300) feet of the property in question. The Board of Appeals may also determine other interested parties who should be provided notice for a specific case. Notices shall be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. If the tenant's name is not known, the term occupant may be used. The notice shall also be published in a paper of general circulation in Highland Township at least fifteen (15) days prior to the hearing, in accordance with Act 110 of the Public Acts of 2006, as may be amended.

### **Sec. 17.04. Powers and duties of Board of Appeals.**

- A. *General.* The Board of Appeals has the power to act on matters as provided in this Ordinance and Act 110, of the Public Acts of 2006, as amended. The specific powers of the Board are enumerated in the following Sections of this Article.

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- B. *Delegated duties.* The Board of Appeals shall hear and decide on all matters upon which it is required to pass under this Ordinance.
- C. *Administrative review.* The Board of Appeals shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official or body in the enforcement of this Ordinance. In exercising the powers set forth in this Article, the Board of Appeals may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.
- D. *Interpretation.*
1. The Board of Appeals shall hear and decide requests for interpretation of this Ordinance or the Zoning Map, taking into consideration the intent and purpose of the Ordinance and the Master Plan.
  2. In an interpretation of the Zoning Map, the Board of Appeals shall be governed by the Rules of Interpretation set forth in Section 4.03, Interpretation of District Boundaries.
  3. A record shall be kept by the Board of Appeals of all decision for interpretation of this Ordinance or Zoning Map and land uses which are approved under the terms of this Section. The Board of Appeals shall request the Planning Commission to review any Ordinance amendment it deems necessary.
- E. *Variances.* Where, owing to special conditions, a literal enforcement of the provisions of this ordinance would involve practical difficulties within the meaning of this Article, the Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Ordinance with such conditions and safeguards as it may determine as may be in harmony with the spirit of this Article and so that public safety and welfare be secured and substantial justice done.

Where Highland Township is not specifically identified as a party of interest in a covenant or deed restriction (such as a condition of approval for a Planned Residential Development), such covenants and deed restrictions are not the purview of the Zoning Board of Appeals and will not be considered in the grant or denial of variances.

Use variances are classified as any variance which permits a use not specifically permitted by this Ordinance for the district in which it is located. Use variances shall not be approved in Highland Township.

All other variances are classified as dimensional variances. [A] dimensional variance shall not be granted by the Board of Appeals unless it can be determined that all of the following facts and conditions exist:

1. Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered shall include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation and other similar characteristics.
2. The characteristics which make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
3. The characteristics which make compliance with the dimensional requirements difficult shall not be of a personal nature.
4. The characteristics which make compliance with dimensional requirements difficult must not have been self created by the current owner.
5. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding

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area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.

6. The Board of Appeals shall not find that any of the above criteria have been met without substantial evidence provided by the applicant to that effect.
  7. The proposed variance will be the minimum necessary, and no variance shall be granted where a different solution not requiring a variance would be possible.
- F. *Dimensional variance in special land uses, planned residential developments, and planned unit developments.* The Board of Appeals may grant dimensional or other site plan related variances (e.g., lot dimensions, setbacks, building height, lot coverage, parking, etc.) for special land uses. The Board of Appeals shall not have the power to reverse or modify the Planning Commission's decision to approve or deny a special land use permit, nor grant variances to any conditions placed on special land use approval.

The Board of Appeals shall not have the authority to grant variances to any regulations or any requirement placed upon a project approved under Article 7, Development Alternatives. However, the Board of Appeals shall have the authority to decide appeal requests by individual lot owners for variances from other sections of the Zoning Ordinance following final approval of a project under Article 7, Development Alternatives, provided such variances do not affect the terms or conditions of the original approval, or constitute a variance to the regulations under Article 7.

- G. *Limitation of authority.* The Board of Appeals shall not have the power to alter or change zoning district boundaries, except where uncertainty exists as to the location of a boundary, land use classifications of any property, or Zoning Ordinance text. The Board of Appeals shall not have the power to hear and decide appeals pertaining to special land uses except for dimensional variances for projects approved under Article 7, Development Alternatives.

( Ord. No. Z-006, § 5, 10-14-2015 )

### **Sec. 17.05. Administrative appeals.**

- A. The Board of Appeals shall hear and decide appeals where it is alleged that there is an error in fact, judgment, process or interpretation in any order, requirement, permit or decision made by Township Staff or a Township Official in enforcing the provisions of this Ordinance.
- B. Appeals shall be filed within thirty (30) days of the decision in question with the Planning Department. The appellant must have property interest and sufficient standing to be recognized under the law to challenge the decision. The appellant shall submit a clear description of the order, requirement, decision, or determination for which the appeal is made and the grounds of the appeal. The appellant may be required by the Board of Appeals to submit additional information to clarify the appeal.
- C. Appeals may be taken by the person aggrieved or by any officer, department, board, agency, or bureau of Township, County, State or Federal governments.
- D. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals that a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken, and on due cause shown.
- E. An administrative decision may be reversed, in whole or in part, or may be modified, only if the Board of Appeals finds the action or decision appealed meets one (1) or more of the following requirements:
  1. Was arbitrary or capricious;

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2. Was based on an erroneous finding of material fact;
  3. Constituted an abuse of discretion; and
  4. Was based on erroneous interpretation of the Zoning Ordinance or zoning law.

**Sec. 17.06. Specific procedures for variances.**

- A. An application for a variance shall be filed by the record owner of the lot in question, or by an agent authorized in writing to act on the record owner's behalf, with the Zoning Administrator. The applicant shall provide such information as is required by the Board of Appeals by way of completed application form, fee and additional information.
- B. After a public hearing and upon findings of fact as required under Section 17.04.E, Variances, the Board of Appeals may approve the variance(s) as requested, approve variance(s) that better complies with the Ordinance than that requested, or deny the request.
- C. The Board of Appeals may impose conditions with an affirmative decision. The conditions may include those necessary to promote the health, safety and welfare of the public and protect and preserve natural features. Any conditions imposed by the Board of Appeals must be related to a valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- D. Any variance approved by the Board of Appeals permitting the erection or alteration of a building shall be valid for a period of one (1) year, provided a building permit for the work has been obtained within that time period and work has commenced on the site. Additionally, the permittee must demonstrate continued progress towards completion of the project. The Board of Appeals may grant extensions, not to exceed six (6) months for each extension, upon a showing of good cause and good faith effort being made to achieve completion.
- E. If a variance approved by the Board of Appeals is not utilized within one (1) year, the variance shall be considered null and void and an application must be re-filed if it is desired at a future date.
- F. A variance which is legally utilized and maintained runs with the property and any subsequent owners may legally continue the variance under its original or amended terms.
- G. An application for a variance which has been denied wholly or in part by the Board of Appeals shall not be resubmitted for a period of one (1) year from the date of denial, except on grounds of new evidence or changed conditions found by the Board of Appeals to be valid.

**Sec. 17.07. Site plan requirements.**

If an application or appeal to the Board of Appeals requires site plan approval by the Planning Commission, the applicant or appellant shall first apply for site plan approval as set forth in Article 5.0, Site Plan Review. The Planning Commission shall review said plan and shall determine the layout and other features required to obtain approval of said plan. The Planning Commission shall then transmit the plan and the Commission's findings thereon to the Board of Appeals. The Board of Appeals shall, upon deciding on the application or appeal, return the plan and its decision thereon to the Planning Commission for Commission action on the site plan.

***ARTICLE 18. SITE SPECIFIC RELIEF***



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### **Sec. 18.01. Intent.**

It is the intent of this Section to provide a site specific administrative remedy to allow reasonable use of property in those limited situations in which a property owner demonstrates to the Township Board certain factors contained in Section 18.02 below. If and when a property owner meets the threshold burden of proof, it is not intended that any use may be approved. Rather, this Section is intended to authorize relief to the minimum extent necessary to allow reasonable use of property on the particular site, taking into consideration the objective of achieving compatibility with surrounding land uses and the Master Plan, and high-quality development.

### **Sec. 18.02. Application requirements.**

In addition to the general application requirements, an application for site specific relief shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support the following factors:

- A. Applicant's property cannot be reasonably used for the purposes permitted in the zoning district.
- B. Applicant's problem in developing consistent with the zoning district and the Master Plan is due to unique circumstances peculiar to his or her property and not to general neighborhood conditions.
- C. Applicant's suggested use would not alter the essential character of the area or the planned development for the area.
- D. Consideration of the origin or history that has allegedly created the problem in developing the property in a manner consistent with the zoning district and the Master Plan.
- E. Factors that would encourage the use, reuse and improvement of an existing site or unique building in a manner that would preserve a significant character of the site or unique building in a compatible manner with surrounding uses.

At the end of each statement (A through E), identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

### **Sec. 18.03. Pre-hearing conference.**

- A. Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference.
- B. The purposes of the pre-hearing conference shall be to:
  - 1. Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
  - 2. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
  - 3. Explore a means of providing relief to the applicant by way of non-use variance from the Zoning Board of Appeals.
  - 4. Discuss the need, desirability, and the terms of providing a verbatim record of the hearing.
- C. The Zoning Administrator shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant's representative.

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- D. The pre-hearing conference will be scheduled and conducted so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

**Sec. 18.04. Review and recommendation by Planning Commission; hearing procedure.**

- A. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must submit evidence of the existence of the five factors set forth in paragraphs A through E of Section 18.02 above. Prior to submission to the Township Board for action, the application shall be referred to the Planning Commission for report and recommendation. In reviewing the application, the Planning Commission shall consider the five factors set forth in paragraphs A through E of Section 18.02 above. Following review and recommendation by the Planning Commission, the Township Board shall weigh and balance the five factors to be considered to grant site specific relief, and make a determination, in its discretion, if the applicant has submitted sufficient information to weigh in favor of granting the relief.
- B. Manner of presentation.
1. Township representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue. Factors that would encourage the use, reuse and improvement of an existing site or unique building in a manner that would preserve a significant character of the site or unique building in a compatible manner with surrounding uses will also be taken into consideration.
  2. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavit, however, the Township Supervisor may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the Township Board may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the Township Board to ask questions of such witnesses.
  3. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
  4. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentations shall be to ensure that a full picture, including all relevant information, is before the Township Board for consideration as it relates to the specific application presented.
  5. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal presentation.

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6. At the hearing, the Township Board may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the Township Board.
  7. If a hearing is not completed at a given meeting within the time period allowed by the Township Board, the Township Board shall adjourn the hearing to a date certain for continuation.

#### **Sec. 18.05. Decision of the Township Board.**

- A. The Township Board may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
- B. At the conclusion of the hearing, the Township Board may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- C. If the Township Board determines to grant site specific relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law.
- D. If the Township Board adopts a motion to grant site specific relief, such motion may be made as a tentative grant of relief, subject to review by the Planning Commission, planning director/consultant, engineer or other person or recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Township Board, in the same motion, should request the completion of all reviews by other boards, commissions or persons by a specific date, so that relief may be expeditiously finalized.
- E. If the Township Board adopts a motion to grant site specific relief under this Section, the relief granted shall be in the form of a development plan and use, subject to all specifications, terms and conditions included on the plan and in the decision.
- F. Effect of approval.
  1. Approval of site specific relief under this Section shall apply only to the specific plan and use granted, shall be subject to all specifications, terms and conditions included on the plan and in the decision granting the approval. An approval under this section shall not be final until such time as a Development Agreement, in a form acceptable to the Township Attorney, shall be signed by the applicant. The Development Agreement shall be recorded with the Oakland County Register of Deeds, at the cost of the applicant.
  2. An approval under this section shall be effective for a period of one (1) year, and shall thereafter be void unless actual structural improvements have been commenced on the property pursuant to building permit.
  3. If the Township Board approves an application, the Planning Department shall place a notation on the zoning map providing notice that site specific relief has been approved on the property.

### ***ARTICLE 19. TEXT AMENDMENTS AND REZONINGS***

#### **Sec. 19.01. Initiating amendments.**

The Township Board may, from time to time, amend, modify, supplement, or revise the district boundaries of the official zoning map or the provisions and regulations of this Ordinance. Amendments to the official zoning map

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which constitute a change in zoning classification may also be referred to as rezonings. Amendments may be initiated by the Township Board, the Township Planning Commission, by petition of one or more property owners of Highland Township, or by one (1) or more persons acting on behalf of a property owner(s) of Highland Township. All proposed amendments shall be referred to the Township Planning Commission for review, public hearing, and recommendation before action may be taken thereon by the Township Board.

### **Sec. 19.02. Amendment procedure.**

The procedure for amending this Ordinance, including the official zoning map, shall be in accordance with the Michigan Zoning Enabling Act (MCL 125.3101 et. seq.), as amended.

Application for amendment shall be made by submitting the application, along with required information and the required fee, to the Zoning Administrator. After receipt of filing, the Zoning Administrator shall transmit copies of the application and required information to the Planning Commission. The Planning Commission shall establish a date for a public hearing on the application and the Township shall give proper notice of the hearing, including notice to property owners and occupants in the vicinity, as provided in the Michigan Zoning Enabling Act, as amended.

Requirements of written notice to property owners shall not apply to comprehensive revisions to the zoning ordinance. Public hearing requirements shall apply to amendments initiated by the Township Board, the Township Planning Commission and by any other governmental agency or body.

### **Sec. 19.03. Conditional rezoning.**

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning classification, that certain conditions could be proposed by property owners as part of a request for rezoning. This is especially true since the Township must consider all potential uses which may be made of property when considering a traditional rezoning request, some of which may be inappropriate for a particular piece of property considering items such as, but not limited to, the surrounding land uses, the Township Master Plan, available infrastructure, and natural features. It is the intent of this Section to provide a process set forth in Section 19.06, Process for Conditional Rezoning, consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405), as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

### **Sec. 19.04. Information required.**

- A. If a petition involves an amendment to the official zoning map (rezoning), the petitioner shall submit the following information:
1. A legal description of the property, including a street address and tax code number(s).
  2. The name and address of the petitioner, the record owner, and all other parties claiming an interest in said property.
  3. The petitioners interest in the property. If the petitioner is not the record owner, the name and address of the record owner(s), and the record owner(s) and other interested parties signed consent to the petition. The consent of mortgagees, lienors, and similar such parties shall not be required.
  4. A copy of a warranty deed for the property.
  5. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the information.
  6. Identification of the zoning district requested and the existing zoning classification of property.

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- B. If a petition involves an amendment to the official zoning map with conditions (conditional rezoning) the requirements of Section 19.04A and the specific requirements set forth in Section 19.06, Process for Conditional Rezoning, must be met.
  - C. If a petition involves a change in the text of the zoning ordinance, the petitioner shall submit the following information:
    - 1. A detailed statement of the proposed amendment, clearly and completely setting forth all proposed provisions and regulations, including all changes in the zoning ordinance necessary to accommodate the proposed amendment.
    - 2. Name and address of the petitioner.
    - 3. Reasons for the proposed amendment.

### **Sec. 19.05. Review of amendments.**

- A. In reviewing any petition for a zoning amendment, the Planning Commission shall evaluate all factors relevant to the petition and shall make its recommendations for disposition of the petition, to the Township Board within a period of sixty (60) days from the date of the Public Hearing. The time limit may be extended by mutual written agreement between the Planning Commission and the applicant.
- B. The factors to be considered by the Planning Commission may include, but shall not be limited to, the following:
  - 1. Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
  - 2. Is the proposed amendment consistent with the Master Plan of the Township?
  - 3. Have the conditions changed since the current zoning was adopted, or was there a mistake in the Zoning Ordinance that justifies an amendment?
  - 4. Will the amendment correct an inequitable situation created by the Zoning Ordinance rather than merely grant special privileges?
  - 5. Will the amendment set an inappropriate precedent?
  - 6. Is the requested zoning consistent with the existing or planned surrounding land uses?
  - 7. If the rezoning is granted, could all requirements in the proposed zoning classification be complied with on the subject property?
  - 8. Would the proposed rezoning be consistent with the trends in land development in the general vicinity of the subject property?
  - 9. Would the proposed rezoning have a negative impact on public services, utilities, or roads?
  - 10. Would the proposed rezoning negatively impact natural features on the site, such as woodlands or wetlands?
- C. All findings shall be made a part of the public records of the meetings of the Planning Commission and the Township Board.

### **Sec. 19.06. Process for conditional rezoning.**

- A. *Application and offer of conditions.*
  - 1. *Authorization and limitations.*

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- a. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a conditional rezoning is requested. This offer may be made either at the time the application for conditional rezoning is filed, or additional conditions may be offered at a later time during the conditional rezoning process as set forth below.
  - b. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the conditional rezoning is requested. Further, the Planning Commission and Township Board shall, at a minimum, consider all the following standards in rendering a decision on a request for conditional rezoning:
  - c. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
  - d. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
  - e. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the terms of this Ordinance.
2. *Amendment of conditions.* The offer of conditions may be amended during the process of conditional rezoning consideration, provided that any amended or additional conditions are entered voluntarily by the owner, and confirmed in writing. An owner may withdraw in writing all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred back to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
  3. *General procedure.* A request for a conditional rezoning shall be commenced by filing a petition with the Zoning Administrator, on the required forms, accompanied by the specified fees. The petition shall explicitly describe the proposed conditional rezoning and shall be signed by the owner of the property. Petitions for conditional rezoning of a specific site shall be accompanied by a sketch or survey containing the information set forth in Table 5.2 Site Plan and Sketch Plan Submitted Requirements.
  4. *Pre-application conference.*
    - a. Prior to filing a formal request for a conditional rezoning, and prior to a public hearing, the applicant may informally meet with the Zoning Administrator, and other representatives as deemed necessary by the Township, to discuss the proposed development. The Pre-Application Conference is intended to be informative and advisory in nature, and affords the applicant the opportunity to discuss the land use and planning policies of the Charter Township of Highland.
    - b. Any and all statements made by the Charter Township of Highland Board of Trustees, Planning Director, Zoning Administrator, Planning Commissioners, Township employees, attorneys, agents or representatives at the Pre-Application Conference have no legal force and are not legal and binding promises, commitments or contracts.
- B. *Planning Commission review.* The Planning Commission, after public hearing and consideration of the factors for conditional rezoning set forth in the review procedures above, may recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner in writing. In the event that any

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recommended changes to the offer of conditions are not subsequently offered by the owner in writing, the recommendation of the Planning Commission shall be considered by the Township Board to be a recommendation of denial of the proposed conditional rezoning.

- C. *Township Board review.* After receipt of the Planning Commission's recommendation, the Township Board shall, consistent with the review procedures above, review the Planning Commission's recommendation and deliberate upon the requested conditional rezoning, and may approve or deny the conditional rezoning request. If the applicant initiates additional or different conditions not considered by the Planning Commission subsequent to the recommendation of the Planning Commission, then the Township Board shall refer such proposed additional or different conditions to the Planning Commission for report thereon within a time specified by the Township Board, and the Township Board shall thereafter proceed to deny or approve the conditional rezoning.
- D. *Statement of conditions.*
1. If the Township Board finds the conditional rezoning request and offer of conditions acceptable, the offer of conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the Township Board to accomplish the requested conditional rezoning. The Statement of Conditions shall:
    - a. Be prepared in a form recordable with the Oakland County Register of Deeds;
    - b. Contain a legal description of the land to which it pertains;
    - c. Contain a statement acknowledging that the Statement of Conditions runs with the land, and is binding upon successor owners of the land;
    - d. Incorporate by attachment the conceptual plan which formed the basis of the conditional rezoning;
    - e. Contain the notarized signatures of all the owners of the property preceded by a statement attesting to the fact that they are the only parties having an interest in the property, and that they voluntarily offer and consent to the provisions contained within the Statement of Conditions;
    - f. The Statement of Conditions may be reviewed and approved by the Township Attorney, with the applicant to pay all costs associated with such review and approval;
    - g. The approved Statement of Conditions shall be filed by the owner with the Oakland County Register of Deeds within thirty (30) days after approval of the conditional rezoning. The owner shall provide the Township with a recorded copy of the Statement of Conditions within thirty (30) days of receipt. The Township Board shall have the authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of the Statement of Conditions would be of no material benefit to the Township or to any subsequent owner of the land; and
    - h. Upon the conditional rezoning taking effect, and after the required recording of the Statement of Conditions, use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.
- E. *Compliance with conditions.* Any person who establishes development or commences a use upon land that has been conditionally rezoned shall continuously operate and maintain the development or use in full compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply fully with the conditions contained within the Statement of Conditions shall constitute a violation of this Ordinance

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and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

- F. *Time period for establishing development or use.*
1. The approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the effective date by publication of the conditional rezoning action, and must thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the Township Board if:
    - a. It is demonstrated to the Township Board's sole satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and
    - b. The Township Board finds that there has not been change in circumstances that would render the conditional rezoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- G. *Reversion of rezoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the Township Board, and proceed pursuant to the normal rezoning procedures.
- H. *Subsequent rezoning of land.* When land that is conditionally rezoned with the Statement of Conditions is thereafter rezoned to a different zoning classification, or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to this Section or upon application of the landowner, or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Oakland County Register of Deeds a notice that the Statement of Conditions is no longer in effect.
- I. *Amendment of conditions.*
1. During the time period for commencement of an approved development or use specified pursuant to this Section or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
  2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original conditional rezoning and Statement of Conditions.
- J. *Township right to rezone.* Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act. (MCL 125.3101 et. seq.), as amended.
- K. *Failure to offer conditions.* The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

### **Sec. 19.07. Conformance to court decree.**

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendment published.



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**Sec. 19.08. Publication.**

Following Township Board approval of a petition to amend the zoning ordinance, notice of the amendment shall be published as required by applicable state law.