

HART TOWNSHIP

ZONING ORDINANCE

ADOPTED May 14, 2003

PUBLICATION DATE: May 22, 2003
3 New Amendments April 8, 2008

Hart Township
3437 West Polk Road
Hart, Michigan 49420

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SECTION 17.01 EFFECTIVE DATE

ZONING ORDINANCE OF HART TOWNSHIP OCEANA COUNTY, MICHIGAN

An ordinance to establish zoning districts and enact provisions governing the unincorporated portions of Hart Township, Oceana County, Michigan, in accordance with the provisions of Act 184 of the Public Acts of 1943, as amended; and to provide for amendments, non-conforming uses and a Board of Appeals, and for the administration of the Ordinance.

HART TOWNSHIP, OCEANA COUNTY HEREBY ORDAINS:

ARTICLE ONE: PREAMBLE

SECTION 1.01 TITLE

This ordinance shall be known as the “Hart Township Zoning Ordinance”.

SECTION 1.02 PURPOSE

The primary purpose of this Ordinance shall be:

To promote and preserve the health, safety, security, and general welfare of the inhabitants of the township;

To provide for the orderly and wholesome development of the township;

To encourage the use of lands and resources of the township in accordance with their character and adaptability;

To create and maintain safe and favorable conditions for living, economic activity and recreational activities in the township;

To provide for safety in traffic and reduce hazards to life and property;

To provide in the interests of health and safety standards under which certain buildings and structures may hereafter be erected and used;

To stabilize and enhance property and civic values;

To facilitate the development of adequate systems of transportation, fire protection, education, recreation, sewage disposal, safe and adequate water supplies, and other public

requirements;

To conserve life, property and natural resources, and the use of public funds for public services and improvements to conform with the most advantageous uses of land, resources and properties.

SECTION 1.03 EXISTING USES OF LANDS, BUILDINGS AND STRUCTURES

The provisions of this Ordinance shall not be retroactive. At the discretion of the owner, the lawful use of any dwelling, building or structure, and of any land or premises as existing and lawful at the time of enactment of this Ordinance may be continued even though such use does not conform with the provisions of this Ordinance, or in the case of an amendment, then at the time of the amendment.

SECTION 1.04 REPEAL AND SAVINGS

Effective on the effective date of this Ordinance, all previous Hart Township Zoning Ordinances, including the most recent Ordinance recodified and amended as of 1998, and including amendments and additions thereto, are repealed. The repeal of said Ordinances shall not release any penalty or liability incurred under said Ordinances, and such Ordinances shall be treated as remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty or liability.

SECTION 1.05 CONFLICTS BETWEEN THE PROVISIONS OF THIS ORDINANCE AND OTHER LAWS OR ORDINANCES OR WITH OTHER PRIVATE RESTRICTIONS OR COVENANTS.

- A. Where any condition imposed by any provision of this Ordinance upon the use of any lot, use, structure or building is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this or another ordinance, or adopted under any other law, then in such case the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- B. This Ordinance is not intended to abrogate any easement, subdivision restriction or private covenant or agreement; provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, subdivision restriction, or other private covenant or agreement, then the provisions of this Ordinance shall govern.

ARTICLE TWO: DEFINITIONS

SECTION 2.01 GENERAL

When not inconsistent with the context, words used in the present tense include the future tense, words used in the singular number include the plural number, and words used in the plural number include the singular. The word “shall” is always mandatory and not merely directory. Terms not herein defined shall have their normal dictionary definitions.

SECTION 2.02 SPECIFIC TERMS.

The following terms shall have the following meanings when used in the within Ordinance:

SECTION 2.02A

Accessory Building; Shall mean a building or a portion of a building subordinate to and on the same lot as a main building and occupied by or devoted exclusively to a use, including, but not limited to, a private garage, ancillary storage buildings, and similar out buildings.

Accessory use: A use of a building, lot or portion thereof, which is customarily incidental and subordinate to principle use of the main building or lot and on the same lot as the principle use.

Adult Bookstore: See Section 12.09.

Adult Entertainment: See Section 12.09

Agricultural Chemical and Fertilizer Sales. A retail or wholesale use involving the bulk and packaged storage, blending, and distribution of agricultural chemicals and fertilizers including herbicides, pesticides, soil additives, organic and inorganic substances typically used in commercial agriculture operations.

Agricultural Labor Housing: A tract of land and all tents, vehicles, buildings and other structures pertaining thereto which is established, occupied or used as living quarters for migratory workers engaged in agricultural activities including related food processing as licensed under the provisions of Act 289 1965, as amended.

Agricultural Processing Plants: Facilities that cut, cook, freeze, or otherwise change the nature of the raw agricultural product provided by the farmer. Specifically not included are facilities that only grade, sort, bag, pit, cool, wash or store raw agricultural products.

Anaerobic Treatment Lagoons: Storage areas for animal wastes in which the organic material is decomposed by anaerobic (in the absence of oxygen) microorganisms.

Assisted Living Facilities: A facility, functioning as a business and offering housing and supervised personal care to one (1) or more persons.

Automotive Service Station: A structure, building, or parcel of land, or any portion thereof used for the retail dispensing or sale of vehicular fuels, lubricants or other flammable fuels, and including the repairing, cleaning, sewing, equipping, painting or diagnosing of motor vehicles when operated as a business.

Section 2.02.B

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

Bed and Breakfast Facility: A dwelling in which lodging and/or meals, are furnished to not more than twelve (12) guests for compensation, and in which the owner operator resides.

Buffer or Buffer Yard: An open space, landscaped area, berm, screenwall, fence or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

Building: Any structure which is constructed or erected, either temporary or permanent, having a roof supported by columns, walls or any other supports, which is used for the purpose of housing, storing or enclosing persons, animals or personal property or carrying on business activities or other similar uses, including tents, stands, cabins and mobile homes. The definition of building shall include only those with at least one hundred one (101) square feet of usable floor area.

Building Official: The official or officials in Oceana County responsible for issuing building and occupancy permits and for enforcement of building code provisions.

Bus Terminal: A structure, building, or parcel of land, or any portion thereof which is used for the storage or parking of motor-driven commercial buses and the loading and unloading of passengers and which may include ticketing facilities, restaurants, restrooms and retail sales.

Section 2.02.C

Campground: Public and private campgrounds shall include establishments to accommodate individuals, families in unsupervised outdoor living and recreation and/or an organized, supervised recreational program of outdoor activities for boys, girls or families, normally housed in tents, cabins recreational vehicles or similar facilities. Temporary housing for itinerant farm workers located within the Agricultural-Residential district shall not be considered a public or private campground.

Child Care or Day Care Facilities: Facilities, which are regulated by the Child Care Organization Act No. 116 of 1973, shall be defined as follows:

Family Day Care Home: A private home in which six (6) or fewer minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for periods of less than 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 (MCLA 722.111(f)(iii)).

Group Day Care Home: A private home in which seven (7) to twelve (12) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for periods of less than 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 (MCLA 722.111(f)(iv)).

Child Care Center: A facility, other than a private home, in which one (1) or more minor children are given care and supervision for periods of less than 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 (MCLA 722.111(e)).

Child Caring Institution: A facility in which six (6) or more minor children are given care and supervision on a twenty-four (24) hour basis operated throughout the year (MCLA 722.111(b)).

Adult Day Care: See Assisted Living Facilities.

Cleaning and Laundry: A commercial establishment providing cleaning, dry cleaning and laundry services on-site for businesses and residents.

Clear Vision Area: An area maintained free of obstacles to insure a clear sight distance for a driver of a motor vehicle to safely cross or enter the traveled roadway extending not less than thirty (30) feet from an intersecting road or ten (10) feet from an intersecting driveway.

Commercial Use: All land used in connection with or for the purchase, sale, display, or exchange of goods, merchandise, or personal services, as well as the maintenance or operation of businesses or recreational or amusement enterprises.

Condominium Unit: That portion of a condominium project or condominium subdivision designed and intended for occupancy and used by the unit owner consistent

with the provisions of the master deed. A condominium unit within a condominium subdivision shall be a lot or a parcel as those terms are used in this Ordinance.

Convenience Store: A commercial establishment offering at retail, packaged goods and foods and beverages for consumption off premises, gasoline, diesel fuel and motor oil and related products, which is operated from a single building containing not more than two thousand (2,000) square feet in gross floor area and is established primarily to meet the needs of the population residing within three (3) mile radius of the establishment as well as the traveling public.

Section 2.02.D

Density: The number of dwelling units per unit of lot area (See Lot Area).

Driveway: A private path of travel over which an automobile may be driven which provides access from one parcel of land to a public or private road.

Driveway, Shared: A driveway as defined in this Ordinance but used by two (2) lots.

Dwellings: A building designed or used as the permanent residence for one or more persons, including one family, two family and multiple family, apartment-hotels, and boarding and lodging houses, having permanent provisions for living, sleeping, eating, cooking and sanitation, but not including hotels, motels, tourist cabins or trailers.

Dwelling, Multi-family: A dwelling occupied by more than one (1) family and so designed and arranged as to provide independent living, cooking, and kitchen accommodations for each family unit.

Section 2.02.E

Easement, Shared Driveway: An easement which is granted exclusively for a private access to two (2) abutting parcels of land and which contains or is intended to contain a private driveway.

Essential Services: The term Essential Services means the erection, construction, alteration or maintenance by public utilities or township departments or commissions of underground or overhead gas, electrical, steam, or water transmissions or distribution systems, collections, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric

substations and substation buildings, gas regulator stations, and regulator building and other similar equipment and accessories in connection therewith (but not including any private provider buildings except those expressly referred to herein) reasonably necessary for the furnishing of adequate service by such public utilities or township departments or commissions or for the public health or safety or general welfare.

Section 2.02.F

Family: One or more persons related by blood, marriage, or adoption occupying a single dwelling unit and living as a single, non-profit housekeeping unit. Also, a collective number of individuals occupying a single dwelling unit under one head whose relationship is of a permanent, non-transitory and distinct domestic character and cooking and living together as a single and separate housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization which is not a recognized religious order nor include a group of individuals whose association is temporary and/or resort seasonal in nature.

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

1. A tract may be considered a farm if it is between five (5) and forty (40) acres, provided it is devoted primarily to an agricultural use and has produced a gross annual income from agriculture of two hundred dollars (\$200.00) per year or more per acre of cleared and tillable land.
2. A smaller tract may be considered a farm if designated by the Department of Agriculture as a specialty farm in one ownership which has produced a gross annual income from an agricultural use of two thousand dollars (\$2,000.00) or more.

Farm Building: Any building or accessory structure other than a farm or a non-farm dwelling unit, which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building and/or milk house.

Fences or Walls: Upright structures or barriers of wood, stone, brick, metal, rails, post, wire mesh, etc., designed to enclose, protect, divide, confine or define a boundary.

Floor Area: The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios, basements and cellars shall not be considered as part of floor area, except when utilized for

commercial or industrial purposes.

Fuel Storage Facility: A commercial operation including the storage and sale of liquid propane gas, petroleum fuels and lubricants and the sale and lease of bulk gas containers.

Funeral Parlor: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith prior to burial or cremation off the site.

Section 2.02.G - Reserved

Section 2.02.H

Height: The vertical dimension of a structure measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the structure.

Home Occupations: An activity carried out for remuneration by a resident conducted as an accessory use in the resident's dwelling unit or accessory building.

Human Care Facilities: (see Assisted Living Facilities)

Section 2.02.I – Reserved

Section 2.02.J

Junk/Scrap Yard: Any land or building used for commercial storage and/or sale of waste items, including but not limited to paper, rags, scrap metals, other scrap or discarded materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof but not including a landfill, transfer station, or recycling facility.

Section 2.02.K

Kenel: Any lot or premises used for the keeping, sale, boarding or breeding of more than four dogs, cats, or other household pets or any combination thereof, for compensation.

Section 2.02.L

Lot: Land occupied or to be occupied by a building and its accessory building, or by a dwelling group and its accessory buildings, together with such open spaces as are required under provisions of this Ordinance for a lot in the district in which such lot is situated and having the required frontage on a street.

Lot of Record: A parcel of land recorded in the Office of the Oceana County Register of Deeds, or a parcel of land shown as a lot in a deed executed and recorded in the Register of Deeds Office, or an executory land contract, properly executed prior to the effective date of this Ordinance.

Lot Area: The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot within the public or private road right-of-way.

Lot, Corner: A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two cords of which form an angle of one hundred thirty-five (135) degrees or less as measured on the lot side. The point of intersection of the street lot lines is the “corner”. In the street lot line nearest to the point of intersection of the tangents described above.

Lot Depth: The means horizontal distance from the front street line to the rear lot line.

Lot, Interior: A lot other than a corner lot.

Lot, Front Line: That side of the lot abutting upon a public or private street right-of-way. In the case of a corner lot, both street right-of-way line shall be considered the front line of the lot if it contains the minimum required frontage.

Lot, Rear Line: Ordinarily the lot line which is opposite and most distant from the front lot line as herein before defined. In the case of an irregular shaped lot, a line ten (10) feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required rear yard spacing.

Lot, Side Line: Any lot line not qualifying as a front or rear lot line. A side lot line separating a lot from a street right-of-way shall be known as a Side Street Lot Line. A side lot line separating a lot from another lot or lots shall be known as an Interior Side Lot Line.

Lot Width: The mean horizontal distance between the side lines as measured at right angles to such side lot lines. Where side lot lines are not parallel, the lot width shall be the average horizontal distance between such side lot lines.

Section 2.02.M

Major Utility Facility: A public or private entity providing essential utility services to the general public or to another private entity whose physical size or operations occupy over seventy-five thousand (75,000) square feet of land area above or below the ground.

Manufactured Housing Community: See Mobile Home Park.

Mining, Surface - A surface mine is a parcel of land utilized for the removal or extraction of natural mineral deposits, soil, and organic soils by open pit mining methods.

Mobile Home: A dwelling or structure which is designed and constructed in such a manner that it is or may be mounted on wheels and moved on the street or highway, propelled or driven by its own or other motive power, and shall include such dwelling units before November 6, 1974, built according to A.N.S.I. standards, November 6, 1974 through June 15, 1976, designated as mobile homes by the Bureau of Construction Code, Department of Labor, State of Michigan, and from June 15, 1976, mobile homes as designated by the H.U.D. of the Federal Government, through its approved agencies and includes those structures as defined by Act. No. 419 of Michigan Public Acts of 1976 as amended.

Mobile Home Park: Any parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

Mobile Home Site or Space: A portion of the mobile home park set aside and clearly marked and designated for occupancy and accommodation of an individual mobile home.

Section 2.02.N

Non Conforming Uses or Structures: A building or structure or the use of a building, structure or land lawfully existing at the time this Ordinance became effective, but which does not conform with the present use, setback, bulk, or other specific regulations of the district in which it is located or this Ordinance.

Section 2.02.O

Office: A room, suite of rooms, or building in which personnel are engaged in executive, administrative, professional, political, informative, research and/or clerical duties and

other similar occupations.

Open Air Storage: The storage of any raw material, components, new or used equipment, product, by-product, waste or other material as a primary use, an accessory use or an incidental activity associated with a legal use under this Ordinance.

Open Space: That portion of a lot, which is not covered with structures and is open to the sky.

Outdoor Lumber Yards and Building Supplies: Such facilities include retail wholesale businesses that store, display, exhibit and demonstrate lumber, building products and raw materials outdoors.

Outdoor Vehicle Sales: Establishments offering for sale to the public new and used automobiles, trucks, recreational vehicles, campers, “fifth wheels,” All-Terrain Vehicles, Motorcycles, motorized and non-motorized boats.

Section 2.02.P

Parking Area/Space: Any area, other than a street or other public way, used of the parking of motor vehicles. A parking area may be accessible for public or private use as an accommodation for residents, clients, customers, or employees licensed motor vehicles. A parking space is exclusive of access drives and aisles and is not located on a public street or alley right-of-way.

Personal Service Establishment: A business providing care for a person or his or her personal goods or apparel and may include laundry and dry cleaning, beauty shops, barbershops, shoe repair, health and fitness and tanning salons.

Planned Unit Development: A development which permits integrated and coordinated residential dwellings and/or certain non-residential uses all to be developed according to approved plans.

Private Roads or Streets: A roadway contained within a private road easement which is privately owned and maintained and which provides the principal means of access to one or more abutting lots.

Private Road Easement: An easement which is granted exclusively for private access to one or more parcels of land and which contains a private road.

Public Utility: Any person, firm or corporation duly authorized to furnish to the public, under state or municipal regulations, electricity, gas, steam, communications or water.

Section 2.02.R

Receiving and Transshipment of Agricultural Products: Public or private structures, facilities, equipment and grounds used for the gathering, packaging, and shipping of agricultural products including grains, produce, fruit, livestock, dairy products and similar goods, but excluding slaughter facilities and facilities for the processing of agricultural products of any kind. Within the Agricultural-Residential district, existing agricultural operations shall not be considered establishments involved in receiving and transshipment of agricultural products.

Recreation Facilities, Indoor and Outdoor: Establishments for indoor or outdoor recreation and receptions including, but not limited to, bowling alleys, golf courses, dance halls, outdoor concert facilities, reception halls, dude ranches, gun and skeet clubs; buildings for fraternal organizations or societies; public and/or private or institutional recreational areas such as golf courses, archery ranges, country clubs, parks, ski and snowmobile facilities, recreation camps, reservations, recreation trails, athletic fields and courts, golf driving ranges, and similar uses. Facilities may be operational during day and evening hours and may provide dining and beverage services.

Recreational Vehicle: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including but not limited to; self-propelled motor homes, pickup campers, travel trailers, and tent trailers.

Recycling Drop-off Site: Public or private structures, facilities, equipment and grounds used for the gathering, recycled materials including paper, plastics, yard waste, ferrous and non-ferrous metals, but excluding tires, compost, hazardous or toxic substances of any kind.

Restaurant: Establishments where food and drink are prepared, served and consumed either within the principal building or elsewhere.

Restaurant, drive through: A restaurant as defined herein offering prepared food and drink through one or more drive-up windows for consumption on or off premises.

Right of Way: A street, alley, thoroughfare, or easement permanently established for passage of persons or vehicles.

Riparian Access: Access rights of a landowner to the water on or bordering his or her property, including the right to make use of such waters and to prevent the diversion or misuse of upstream water.

Road, or Street: A right-of-way or access easement that provides direct access to one or more abutting properties.

Roadside Stands: A temporary or seasonal booth or stand for the display and sale of agricultural and related products typically grown or produced on site; such structure shall not have space for customers within the stand or booth itself.

Section 2.02.S

Screening: A method of visually shielding or obscuring one (1) abutting nearby structure or use from another, including, but not limited to a fence, screen wall, landscaping, berm, or any combination of these which are built, planted, and maintained providing a minimum visual barrier of six (6) feet.

Setback: The minimum horizontal distance a building or structure or any portion thereof, is required to be located from the boundaries of the lot or parcel of land upon which the same is situated; provided further that for a lot or parcel of land adjoining or containing a public or private road, street, right-of-way or access easement, the setback shall be measured from the nearest boundary line of said public or private road, street, right-of-way or access easement.

Sign: Any announcement, declaration, display, illustration, or insignia used to advertise or promote the interests of any person, product, or project when the same is placed, painted or displayed out of doors in view of the general public.

Sign Area: The area within a single continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising copy (the wording, drawings, display, or message on the sign surface in either permanent or removable form), together with any frame, other materials, or color forming an integral part of the copy or similar device used to differentiate the same from the background, against which it is placed, excluding necessary poles, pole covers, supports, braces, or uprights of the sign unless they bear advertising copy.

Sign, Temporary: A display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic, or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public demonstration.

Specified Anatomical Areas: Specified anatomical areas are defined as less than completely and opaquely covered human genitals, pubic region, buttock, female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Specified sexual activities are defined as: Human genitals

in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Story: A portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. A basement shall not be counted as a story.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or anything attached to something having permanent locations on the ground, but excluding sidewalks and driveways.

Section 2.02.T – Reserved

Section 2.02.U.

Underground Home: A residence with sides, which are either partially or totally below grade designed as a complete living unit. An underground home shall include earth-bermed, earth sheltered and envelope homes and similar dwelling units. The underground home shall be at grade on one side or have one exit at a common grade to the interior of the home.

Use: The purpose for which land or a building is arranged, designed, or intended or for which land or a building may be occupied; or any activity, occupation, business, or operations carried on or intended to be carried on in a structure or on the land.

Utility Facilities: Establishments for the provision of water, wastewater treatment, solid waste processing and disposal, electrical power generation and similar activities. Wireless telecommunications facilities and antennae are not included in this definition.

Section 2.02.V – Reserved

Section 2.02.W

Warehouse: A commercial venture that rents indoor or outdoor space for storage purposes. Such facilities include commercial warehouses and self-storage facilities in which patrons typically have joint access to the lot but possess separate access to individual lockable and secure storage units.

Wireless Communication Facility: See Section 12.26.

Wireless Communication Facility Support Structure: See Section 12.26.

Section 2.02.Y

Yard: The open area of a lot which is the shortest horizontal distance from the building line to the; nearest building line (setback line) of the building or structure; excluding berms, fences or walls.

Section 2.02.Z

Zoning Administrator: The Official of Hart Township responsible for implementation of the Zoning Ordinance and enforcement of its provisions.

ARTICLE THREE: ZONING DISTRICTS

SECTION 3.01 TYPES OF ZONING DISTRICTS

To achieve the purposes set forth in the Preamble, the unincorporated area of Hart Township is hereby divided in the following Zoning Districts, the location of which are shown on the accompanying map; entitled, "Zoning Districts of Hart Township, Oceana County, Michigan".

Residential - R

Agricultural - Residential - A-R

Manufactured Housing Community - MHC

Commercial - C

Industrial - D

SECTION 3.02 INTERPRETATION OF ZONING MAP

The areas assigned to the districts are shown upon the map entitled "Hart Township Zoning Map" (page 3-2) which is hereby made a part of this Ordinance. Said map shall at all reasonable times be available for examination and shall be kept with the records of the Township Clerk. Unless otherwise indicated, the boundary lines of said Districts shall be interpreted as following along section lines or customary division lines of sections, such as quarter or eighth lines; or the centerline of highways, streets and waterways; or the shorelines of water bodies; or the boundaries of incorporated areas, recorded plats or subdivisions; or property lines of legal record on the date of enactment of this Ordinance, or the extension of any said lines. All questions concerning the exact location of boundary lines of any district not clearly shown on the map; shall be determined by the Zoning Board of appeals consistent with the purpose of this Ordinance.

SECTION 3.03 POLK ROAD CORRIDOR 425 AGREEMENT

On March 15, 1996 the Township and the City of Hart entered into a 425 Agreement, limited to commercial development along the Township section of Polk Road, from 64th Avenue east to the City's section of Polk Road. The main purpose of this agreement was to provide sewer and water for development of the corridor. This agreement does have an impact on the development is reviewed and the subsequent cost of hook up, jurisdiction and taxes.

The 425 Agreement states that the Township will retain its zoning authority, under the Township Zoning Ordinance, however a joint 425 Planning Commission will be involved in the review process and appeals will be made to a 425 Zoning Board of

Appeals. Both the 425 Planning Commission and the 425 ZBA are limited to the Polk Road Corridor.

INSERT ZONING MAP

The Hart Township Zoning Ordinance and the 425 Agreement should be reviewed by any development within the 425 Agreement area.

The following procedure shall be set for review of 425 development projects:

Site Plan Review as set forth in Article Eleven, before the 425 and Township Planning Commission.

Review and approval or denial by the Township Board.

Zoning permits, which indicate a substantial change in value or square footage by 425 Agreement standards, shall initiate review by both Planning Commissions, and the possible transfer to the City of Hart.

SECTION 3.04 LOT SIZE, BULK, AND PLACEMENT REGULATIONS

Except as otherwise specifically provided in this Ordinance, no structure shall exceed the density and dispersion limits specified in the individual districts. The regulations shall apply to all zoning districts:

Notes to Schedule of Regulations:

Setback measurements are measured from the lot line, public or private road right-of-way or access easement line.

All lots abutting water shall maintain a setback of forty (40) feet, as measured from the edge of the ordinary high water mark (meaning the bank or line between the upland and bottom lands which is apparent by the established by law). This minimum setback may be reduced by one foot for every one foot of vertical elevation of the bank to a minimum of thirty (30) feet is reached, as measured from the edge of the bank or bluff line.

A minimum four (4) foot setback shall be maintained from any public utility or municipal easements.

No structure, other than fences or walls, shall be erected or maintained between any lot line or road right-of-way and the established setback distance, unless otherwise provided in this Ordinance.

TABLE 1, TABLE OF REGULATIONS

DISTRICT	Min Lot Size/ Unit	Max Height of Structures	Minimum Yard Setback per Lot (feet)	Min. FA/Unit
-----------------	-------------------------------	-------------------------------------	--	---------------------

AreaLot Width ^aLot Depth ^aStoriesFeetFrontSideRear

RRESIDENTIAL

Unplatted

15,000 sq. ft.

100 feet.

150 feet.

2 ½

35

30 ft.

15 ft.

15 or 30 ^b ft.

720Subdivisions

12,000 sq. ft

80 feet

120 feet

2 ½

35

30 ft.

8 ft.

8 or 30 ^b ft.

720

A-R

AGRICULTURAL-RESIDENTIAL

Unplatted

60,000 sq. ft.

200 feet.

300 feet.

NONE

NONE

65 ft.

15 ft.

15 or 30^b ft.

720

Subdivisions

15,000 sq. ft.

100 feet.

100 feet.

2 ½

35

40 ft.

10 ft.

10 or 30^b ft.

720

MHC	MANUFACTURED HOUSING COMMUNITY	For housing within a Manufactured Housing Community, area, depth and width shall be as permitted by the rules of the Manufactured Housing Commission	2 ½	35	Within a manufactured Housing Community, homesite setback requirements shall be as permitted by the rules of the Manufactured Housing Commission	720
		Housing outside a Manufactured Housing Community shall meet the lot area, depth and width requirements of the Residential District			Housing outside a Manufactured Housing Community shall meet the setback requirements of the Residential District	

COMMERCIAL 20,000 sq. ft. 100 NONE NONE

NONE 505 ^c20N/A **INDUSTRIAL** 1 Acre 150 NONE NONE NONE 100 or

30 ^d50 or 30 ^e10 or 30 ^b ft. 700

Notes to Table 1, Table of Regulations

- a. The Zoning Administrator may permit greater depth to width ratios than set forth in this ordinance where unique site conditions make compliance impractical.
- b. There shall be a thirty (30) foot setback from the ordinary high water marks for all parcels with water frontage.
- c. The aggregate of side yard setbacks shall be twenty (20) feet or more.
- d. Front yard setbacks in the Industrial district shall be one hundred (100) feet for buildings and thirty (30) feet for all other structures
- e. Side and rear setbacks shall be at least fifty (50) feet if adjoining a residential property or property zoned for other than commercial or industrial uses, if adjoining another industrial or commercial use and zoning district, no side or rear setback shall apply.

SECTION 3.05. TABLE OF USES.

Table 2, Table of Uses summarizes the applicable regulatory standards for land uses governed under this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance.

HART TOWNSHIP

Table 2, Uses Permitted by Right and Special Use Permit
 (R = Use by Right; SUP = Use Permitted by Special Use Permit)

USES			Districts		
			Residential	Ag. – Resid.	Manufactured Hsng. Commercial Com
Accessory structures	R	R	R	R	R
Adult book stores and entertainment				SUP	SUP
Agricultural chemical and fertilizer sales				SUP	SUP

Agricultural processing operations (subject to certain limitations)		R			
Agricultural uses and buildings	R	R			
Animal livestock facilities		R			
Automotive service stations				SUP	SUP
Banks, building and loan associations and other lending institutions				R	R
Barber and beauty shops				R	R
Bus terminals				SUP	SUP
Campgrounds		SUP		SUP	
Cemeteries	R	R			
Churches	R	R		R	R
Cleaning and laundry establishments – commercial or industrial				SUP	SUP
Cleaning and laundry establishments – retail				R	R

USES			Districts		
			Residential	Ag. – Resid.	Manufactured Commercial Hsng. Com.
Dwelling – one and two family		R	R		
Dwelling – single family	R	R	R		
Dwelling – Multi-family	SUP				
Essential public utility services				R	R
Facilities for the selling, storage and transshipment of agricultural products		R			
Farm machinery and supplies, sales and service		R			
Farms		R			
Forestry operations		R			
Fuel storage facilities				SUP	SUP
Funeral parlors				R	R

Garage to serve single family dwellings, not to exceed three (3) stalls	R		R		
Governmental facilities without open air storage		R			
Greenhouses		R		R	R
Home occupations (subject to certain limitations)	R or SUP	R or SUP	R or SUP		
Hotels and Motels				R	R
Human Care and Assisted Living (less than 7 residents)	R	R	R		
Human Care and Assisted Living (7 to 13 residents)	SUP	SUP		SUP	
Hunting and fishing preserves		R			
Indoor theaters				R	R
Indoor/outdoor recreation facilities		SUP		SUP	SUP
Libraries	R				
Major utility facilities				SUP	SUP

Medical clinics				R	R
Mobile homes and manufactured housing			R		
Offices				R	R
Open space preservation development	R	R			
Outdoor lumber yards and building supplies				SUP	SUP
Outdoor vehicle sales				SUP	SUP
Planned Unit Developments	SUP	SUP	SUP	SUP	SUP
Private Roads	SUP	SUP	SUP	SUP	SUP
Public parks and playgrounds	R				
Public Utility Facilities without open air storage	R				
Receiving and transshipment of agricultural products				SUP	SUP
Recycling drop-off sites				SUP	SUP

Restaurants				R	R
USES			Districts		
			Residential	Ag. – Resid.	Manufactur Commercial ed Hsng. Com.
Restaurants – drive through				SUP	SUP
Retail sales establishe nts				R	R
Roadside stands selling agricultural products		R			
Schools	R	R			
Uses Similar in terms of impact to uses permitted by Special Permit	SUP	SUP	SUP	SUP	SUP
Veterinary hospitals				R	R
Warehouses				SUP	SUP
Wholesale sales				R	R
Wireless Telecommu nication Facilities		SUP		SUP	SUP

ARTICLE FOUR: RESIDENTIAL DISTRICT

SECTION 4.01 PURPOSES

The purpose of creating a residential district is to provide areas primarily for residential uses consisting primarily of dwellings, each located on individual lots or premises, adequate in size to provide for safe water and sewage disposal facilities, reasonably spaced to diminish spread of fire, and set back from the public thoroughfare to facilitate safe exit from and entrance to the premises.

SECTION 4.02 USES PERMITTED BY RIGHT

No building or structure shall hereafter be erected, used or occupied, or land or premises occupied for other than the following uses:

Single family dwellings and garages.

Churches, schools, libraries.

Public utilities facilities, but not storage yards.

Public parks and playgrounds.

Cemeteries.

Accessory buildings and structures incidental to primary use.

Agricultural uses and buildings.

Home Occupations, subject to **Section 10.14**.

- I. Human Care Facilities and Assisted Living Facilities housing less than seven (7) residents.
- J. Open Space Preservation Developments subject to **Section 10.15**.
- K. Other residential related uses and accessory uses may be permitted by special use permits, as set forth in **Section 4.03**.

SECTION 4.03 USES PERMITTED BY SPECIAL USE PERMIT.

Pursuant to Article Twelve, the Planning Commission may recommend and the Township Board may approve the following special land uses within the Residential District:

- A. Home Occupations as provided in **Section 12.16** of this Zoning Ordinance.
- B. Human Care Facilities and Assisted Living Facilities housing at least seven (7) but not more than thirteen (13) residents pursuant to **Article Twelve** of this Zoning Ordinance.
- C. Multi-family dwelling units, as provided in **Section 12.14**.
- D. Planned Unit Developments as provided in **Section 12.21** of this Zoning Ordinance.
- E. Private Roads as provided in **Section 12.29** of this Zoning Ordinance.
- F. Uses Similar in terms of impact to the above uses permitted by special use permit, subject to the approval standards of **Article 12**.

SECTION 4.04 MINIMUM LAND OR LOT REQUIREMENTS

Minimum lot area, dimensions, setbacks, side yards and first floor area of dwellings shall be:

Unplatted and land platted after October 15, 1998.

Lot area: 15,000 Square feet.

Lot width: 100 feet.

Lot depth: 150 feet.

Side and rear yard setback for unplatted: 15 feet.

Front setback from lot line: 30 feet.

Main floor area of dwellings: 720 square feet.

Setback from lakes and rivers: 30 feet from edge of the high water mark of lake or river.

- B. Platted, land platted on or before October 15, 1998

Lot area: 12,000 square feet.

Lot width: 80 feet.

Lot depth: 120 feet

Setback from front lot line: 30 feet

Rear and side yards: 8 feet.

Main floor area of dwellings: 720 feet.

Setback from lakes and rivers: 30 feet from edge of the high water mark of the lake or river.

SECTION 4.05 MOBILE HOMES AND OTHER PRE-ASSEMBLED DWELLINGS

Mobile homes and other pre-assembled dwellings shall be placed on a permanent foundation and the open space between the floor and ground level shall be enclosed or skirted by metal, masonry, fiber glass or other suitable materials before occupancy. To the extent not in conflict with the preceding sentence of this paragraph 4.05, mobile homes and other pre-assembled dwellings shall be installed according to the manufacturer's specifications and directions.

SECTION 4.06 CRYSTAL LAKE WATERFRONT OVERLAY

A. Purpose: The purpose of the Crystal Lake Waterfront Overlay is to recognize the unique physical, economic, and social attributes of waterfront and shoreline properties and to ensure that the structures and uses in this district are compatible with and protect these unique attributes. The requirements of this section shall be supplementary to the requirements of the Residential district and all such requirements shall apply in addition to those set forth for the Residential district. In the event the requirements of the Waterfront Overlay district vary or conflict with the regulations contained in the Residential district, the stricter requirement shall govern.

B. Overlay Limits. The requirements of the Crystal Lake Waterfront Overlay shall apply to any parcel located within the Residential district, if any portion of which has direct frontage on, or access to the waterfront and shoreline of Crystal Lake. The requirements of this Section shall apply to all portions of any parcel within the Crystal Lake Waterfront Overlay.

C. Permitted Uses.

1. All uses permitted by right pursuant to Section 4.02 and uses permitted by Special Land Use pursuant to Section 4.03 shall be permitted within the Crystal Lake Waterfront Overlay; provided however, that multifamily dwelling units shall not be permitted within the Crystal Lake Waterfront Overlay. All such permitted uses shall be governed by all applicable requirements of this Zoning Ordinance.

2. Private boat docks shall be permitted within the Crystal Lake Waterfront Overlay, subject to the following requirements:

- a. Private boat docks shall comply at all times with all applicable state and federal regulations.
- b. One (1) private boat dock shall be permitted for each waterfront lot or parcel. Lots or parcels with more than fifty (50) feet of water frontage on Crystal shall be permitted one (1) additional boat dock for each additional fifty (50) feet of water frontage exceeding the first fifty (50) feet.
- c. Dock design, including length, shall not interfere with navigation or other riparian rights of waterfront owners.
- d. Boat docks and boat slips, except as permitted in subparagraph 4.06, C, 2, e, shall be used only by persons residing on the premises or their guests, or patrons of the premises, and shall not be leased, rented, or otherwise made available for compensation.
- e. Boat docks and slips may be permitted on any lot, regardless of whether a main building or principal use exists on such lot.

D. Riparian Access. The following restrictions are intended to limit the number of users of lake frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within Crystal Lake.

1. Each lot or parcel providing riparian access to Crystal Lake shall have at least fifty (50) feet of lake frontage as measured along the ordinary high water mark of the lake for each dwelling unit entitled to such riparian access.
2. The restrictions of this section shall apply to all lots and parcels on or abutting Crystal Lake, excluding public access parcels.
3. No parcel or lot without direct riparian access to Crystal Lake may be granted a riparian access easement over a parcel with access to Crystal Lake, except in conformance with the provisions of this section.

ARTICLE FIVE: AGRICULTURAL - RESIDENTIAL DISTRICTS, A
- R

SECTION 5.01 PURPOSE

The Agricultural-Residential District is intended for agricultural operations and the limited development of very low density single-family housing. This area is not well suited for the development of residential neighborhoods nor is it expected to be served with urban public services.

SECTION 5.02 USES PERMITTED BY RIGHT

No building or structure shall hereafter be erected, used or occupied on land or premises occupied for other than the following uses:

Farms and forestry.

Roadside stands selling agricultural produce.

Single family dwellings, and one and two family dwelling units intended for migrant housing.

Farm machinery and supplies, sales and service.

Greenhouses, as an accessory to a farming or residential principal use.

Churches, schools, and cemeteries (limited to the burial of human remains).

Human Care Facilities and Assisted Living Facilities housing less than seven (7) residents.

Hunting and fishing preserves.

Home Occupations, subject to **Section 10.14**.

Governmental and public utility facilities but not including storage yards, sanitary land fills and sewage disposal systems.

Accessory buildings and structures incidental to any primary uses.

Buying, selling, storage and receiving for trans-shipment of agricultural products.

Processing of agricultural products subject to the following:

At least 25% of these products are grown on the owner's farm.

Located not less than 200 feet from any public road and not less than 200 feet from abutting property lines.

Animal livestock facilities in which the animals are totally enclosed shall meet the following setbacks:

Front: 75 feet. Side and rear: 200 feet.

From nearest off site dwelling: 300 feet.

- O. Open Space Preservation Developments subject to **Section 10.15**.

SECTION 5.03 USES PERMITTED BY SPECIAL USE

Pursuant to Article Twelve of this Zoning Ordinance, the Planning Commission may recommend and the Township Board may approve the following special land uses within the Agricultural-Residential District.

- A. Public and Private Campgrounds as provided in **Section 12.28**.
- B. Home occupations as provided **in Section 12.16** of this Zoning Ordinance.
- C. Human Care Facilities and Assisted Living Facilities housing at least seven (7) but not more than thirteen (13) residents pursuant to **Article Twelve** of this Zoning Ordinance.
- D. Indoor/Outdoor Recreation Facilities as provided in **Section 12.17** of this Zoning Ordinance.
- E. Private Roads as provided in **Section 12.29** of this Zoning Ordinance.
- F. Wireless Telecommunication Facilities as provided in **Section 12.26** of this Zoning Ordinance.
- G. Uses Similar in terms of impact to the above uses permitted by special use permit, subject to the approval standards of **Article 12**.

SECTION 5.04 MINIMUM LAND OR LOT REQUIREMENTS:

Minimum lot area, dimensions, setbacks, side yards and first floor area of dwellings shall be:

Lot area: 60,000 square feet if unplatted, 15,000 square feet if platted, or located in a condominium subdivision.

Lot width: 200 feet if unplatted, 100 feet if platted, or located in a condominium subdivision.

Lot depth: 300 feet if unplatted, 100 feet if platted, or located in a condominium subdivision.

Setback from front lot line - 65 feet if unplatted, 40 feet if platted or located in a condominium subdivision.

Side and rear yards: 15 feet each side if unplatted, 10 feet each side if platted or located in a condominium subdivision.

Main floor area of dwellings: 720 square feet.

Setback from lakes and rivers: 30 feet from edge of the high water mark of lake or river

Planned Unit Developments as provided in Section 12.21 of this Zoning Ordinance.

SECTION 5.05 MOBILE HOMES AND OTHER PRE-ASSEMBLED DWELLINGS

Mobil homes and other pre-assembled dwellings shall be placed on a permanent foundation and the open space between the floor and ground level shall be enclosed or skirted by metal, masonry, fiberglass or other suitable materials before occupancy. To the extent not in conflict with the preceding sentence of this paragraph 4.05, mobile homes and other pre-assembled dwellings shall be installed according to the manufacturer's specifications and directions.

ARTICLE SIX: MANUFACTURED HOUSING COMMUNITY, MHC

SECTION 6.01 PURPOSE

The Manufactured Housing Community District is intended to provide for the location and regulation of manufactured housing communities. It is intended that manufactured housing communities be provided with necessary community services in a setting that provides a high quality of life for residents and residential development standards consistent with all other residential districts in Hart Township. This district shall be located in areas where it will be compatible with adjacent land uses. It is further the intent of this district to prohibit multiple family, office, business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development, or continued use, of the land for manufactured housing communities in the district.

Determining the appropriate location for a manufactured housing community is a uniquely challenging task and may have a crucial impact on adjacent and surrounding land uses. A manufactured housing community contains specific site conditions unlike other types of residential development. Sites with an abundance of natural features such as forested areas, wetlands, and steep slopes are not found to be suitable for the development of a manufactured housing community. In light of these parameters, the absence of a detailed resource inventory in the Township, coupled with the limited availability of public sewer and water facilities, the Township has selected to allow this zoning district to “float” placing the responsibility for the site analysis on the applicant for the placement of the district. The Township and residents shall rely on the Comprehensive Plan to determine future use and judge/evaluate rezoning requests.

The regulations established by state law, Michigan Public Act 96 of 1987, as amended, the Michigan Manufactured Housing Commission Rules, and this Article shall govern all manufactured housing communities in the Township. If any portion of the regulations in this Article exceed the state law or the Rules of the Michigan Manufactured Housing Commission, the higher standards are intended to insure that manufactured housing communities meet the development and site plan standards established by this Ordinance for other comparable residential development and to promote the health, safety and welfare of Township’s residents. It is not the intent of this Article to exclude from Hart Township manufactured homes or persons who engage in any aspect pertaining to the business of manufactured housing.

SECTION 6.02 USES PERMITTED BY RIGHT

No building or structure shall hereafter be erected, used or occupied on land or premises occupied for other than the following uses:

Accessory buildings and structures incidental to primary use.

- B. Garages to serve single family dwellings, not to exceed three (3) stalls
- C. Human Care Facilities and Assisted Living Facilities housing less than seven (7) residents.
- D. Manufactured Housing Communities, subject to the Mobile Home Commission Act (Act 96 of the Public Acts of 1987, as amended) and the Manufactured Housing Community Code promulgated by the Manufactured Housing Commission pursuant to section 5 of said act.
- E. Multi-Family, site built, dwellings located within the Manufactured Housing Community District, as provided in **Section 12.14** of this Zoning Ordinance.
- F. Home Occupations, subject to **Section 10.14**.
- G. Other residential related uses and accessory uses may be permitted by special use permits, as set forth in **Section 4.03**.

SECTION 6.03 USES PERMITTED BY SPECIAL USE PERMIT.

Pursuant to Article Twelve, the Planning Commission may recommend and the Township Board may approve the following special land uses within the Residential District:

- A. Home Occupations as provided in **Section 12.16** of this Zoning Ordinance.
- B. Planned Unit Developments as provided in **Section 12.21** of this Zoning Ordinance
- C. Private Roads as provided in **Section 12.29** of this Zoning Ordinance.
- D. Uses Similar in terms of impact to the above uses permitted by special use permit, subject to the approval standards of **Article 12**.

SECTION 6.04 MINIMUM LAND OR LOT REQUIREMENTS

Minimum lot area and dimensions, set back and first floor area of dwellings for manufactured housing located within a licensed manufactured housing community shall be as provided in the Manufactured Housing Code promulgated by the Manufactured Housing Commission. For all other uses, the minimum lot area and dimensions, set back and first floor area of dwellings shall be:

- A. Unplatted and land platted after October 15, 1998.

1. Lot area: 15,000 Square feet.
 2. Lot width: 100 feet.
 3. Lot depth: 150 feet.
 4. Side and rear yard setback for unplatted: 15 feet.
 5. Front setback from lot line: 30 feet.
 6. Main floor area of dwellings: 720 square feet.
 7. Setback from lakes and rivers: 30 feet from edge of the high water mark of lake or river.
- B. Platted, land platted on or before October 15, 1998.
1. Lot area: 12,000 square feet.
 2. Lot width: 80 feet.
 3. Lot depth: 120 feet
 4. Setback from front lot line: 30 feet
 5. Rear and side yards: 8 feet.
 6. Main floor area of dwellings: 720 feet.
 7. Setback from lakes and rivers: 30 feet from edge of the high water mark of the lane or river.

ARTICLE SEVEN: COMMERCIAL DISTRICT, C

SECTION 7.01 PURPOSE:

This district is designed to provide local or service retail sales and commercial uses catering to the general public as distinguished from large regional oriented commercial uses, and industrial or manufacturing activities.

SECTION 7.02 USES PERMITTED BY RIGHT

No building or structure shall hereafter be erected, used or occupied, or land or premises occupied for other than the following uses:

Retail sales businesses requiring minimal assembling, but no treatment or manufacturing.

Offices.

Banks, building and loan associations, and other lending institutions.

Funeral parlors, not including crematoria.

Restaurants without drive-through service

Essential public utility services.

Indoor theaters.

Hotels and motels, subject to the review of the Township Fire Chief pertaining to public occupancy and fire protection.

Cleaning and laundry customer service stations, except where there is non-customer oriented, commercial, or industrial cleaning of fabric.

Barber shops and beauty shops.

Churches.

Veterinary hospitals.

Wholesale sales.

Greenhouses.

Human care facilities.

Medical clinics.

Accessory buildings and uses customarily incidental to any of the foregoing, not including any manufacturing or treatment activities.

SECTION 7.03 USES PERMITTED BY SPECIAL USE PERMIT

Pursuant to Article Twelve, the Planning Commission may recommend and the Township Board may approve the following special land uses within the Commercial District:

Dry cleaning or laundry facilities where there is non-consumer oriented, commercial, or industrial cleaning of fabric, as provided in **Section 12.13** of this Zoning Ordinance.

Automotive service stations, as provided in **Section 12.11** of this Zoning Ordinance.

Public and Private Campgrounds as provided in **Section 12.28** of this Zoning Ordinance.

Outdoor vehicles sales, as provided in **Section 12.20** of this Zoning Ordinance.

Indoor/outdoor recreational facilities, as provided in **Section 12.17** of this Zoning Ordinance.

Outdoor lumber yard/building supplies, as provided in **Section 12.19** of this Zoning Ordinance.

Agricultural chemical and fertilizer sales, as provided in **Section 12.10** of this Zoning Ordinance.

Bus terminals, as provided in **Section 12.12** of this Zoning Ordinance.

Warehouses, as provided in **Section 12.25** of this Zoning Ordinance.

Receiving and trans-shipping of agricultural products, as provided in **Section 12.22** of this Zoning Ordinance.

Restaurants with drive through service, as provided in **Section 12.24** of this Zoning Ordinance.

Adult book stores/entertainment, as provided in **Section 12.09** of this Zoning Ordinance.

Recycling drop-off sites, as provided in **Section 12.23** of this Zoning Ordinance.

Planned Unit Developments, as provided in **Section 12.21** of this Zoning Ordinance.

Private Roads, as provided in **Section 12.29** of this Zoning Ordinance.

Major utility facilities, as provided in **Section 12.18** of this Zoning Ordinance.

Fuel storage facilities, as provided in **Section 12.15** of this Zoning Ordinance.

Wireless Telecommunication Facilities, as provided in **Section 12.26** of this Zoning Ordinance.

S. Uses similar in terms of impact to the above uses permitted by special use permit, subject to the approval standards of **Article Twelve**.

SECTION 7.04 SCHEDULE OF REGULATIONS, COMMERCIAL DISTRICT

Min. lot size: 20,000 square feet

Min. lot width: 100 feet

Front Setback: 50 feet (from road right of way)

D. Side setback: Side setbacks in the Commercial District shall be at least five (5) feet on any side, with an aggregate of twenty (20) feet for both sides.

E. Rear setback : 20 feet

ARTICLE EIGHT: INDUSTRIAL DISTRICT, I

SECTION 8.01 PURPOSE

This industrial area is intended for uses generally incompatible with other uses permitted elsewhere in the township, including, but not limited to, assembly, manufacturing, processing, salvage, storage and related activities.

SECTION 8.02 USES PERMITTED BY RIGHT

No building or structure shall hereafter be erected, used or occupied on land or premises occupied for other than the following uses:

Any use permitted by right in the Commercial District.

- B. Accessory buildings and uses.
- C. Manufacturing, processing, assembly, salvage and similar operations, but excluding facilities involving smelting, petroleum refining or electrical power generation or the storage of hazardous, flammable, explosive or toxic substances in quantities which require consideration under the terms of **Section 8.03** hereof.

SECTION 8.03 USES PERMITTED BY SPECIAL USE PERMIT

Pursuant to Article Twelve, the Planning Commission may recommend and the Township Board may approve the following special land uses within the Industrial District:

Any use permitted by special use permit in the Commercial District.

- B. Smelting, petroleum refining or electrical power generating facilities, subject to the following requirements:

All uses shall be established and maintained in accordance with all applicable state laws.

The site shall be a minimum of five (5) acres in size.

The site shall have access on an all-season road.

A solid fence, wall or earthen berm at least six (6) feet in height and no greater than twelve (12) feet in height shall be provided around the periphery of the site to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and

inconspicuously. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the enclosed area.

Industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.

- C. Facilities which, in the judgment of the Zoning Administrator, devote or may devote ten percent (10%) or more of the site or facility to the manufacture or storage of toxic, flammable or explosive materials, subject to the following requirements:

All uses shall be established and maintained in accordance with all applicable state laws.

The site shall be a minimum of five (5) acres in size.

All storage and processing vessels shall be located not less than two hundred (200) feet from any property line or public right-of-way.

The Planning Commission may require fencing or other security measures on some or all of such facilities to protect the health, safety and welfare of Township residents.

The site shall have access on an all-season road.

- D. Private Roads as provided in **Section 12.29** of this Zoning Ordinance.
- E. Wireless Telecommunication Facilities, as provided in **Section 12.26** of this Zoning Ordinance.
- F. Uses Similar in terms of impact to the above uses permitted by special use permit, subject to the approval standards of **Article 12**.

SECTION 8.04 SCHEDULE OF REGULATIONS, INDUSTRIAL DISTRICT

Min. lot size: One (1) acre, (43,560 square feet).

Min. lot width: 150 feet

Front Setback: From the road right-of-way, 100 feet for buildings and 30 feet for all other structures

Side setback: 50 feet from any zone other than Commercial or Industrial zoned parcel or any parcel of land used for residential purposes, otherwise thirty (30) feet

Rear setback: 50 feet from any zone other than Commercial or Industrial zoned parcel or any parcel of land used for residential purposes, otherwise thirty (30) feet

In no instance shall the front, side or rear setback from lakes and rivers be less than 30 feet from edge of high water mark of lake or river.

ARTICLE NINE: REQUIRED PARKING AND LOADING SPACES

In all districts, there shall be provided at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking spaces for automobiles, in accordance with the following requirements:

SECTION 9.01 OFF-STREET PARKING

- A. Size and Access.** Each off-street parking space shall comprise an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be adequate provision for ingress and egress to all parking spaces. No parking space designated for automobiles shall have a width of less than nine (9) feet.
- B. Types of vehicles to be served.** Except as otherwise specified in this Article, off-street parking spaces required herein may be occupied by passenger automobiles owned by the occupants of the property or by visitors, or by self-propelled delivery vehicles incidental to the principal use, but not be vehicles being repaired, stored, or displayed for sale or hire or for any other purpose which is classified by this ordinance as a principle use.
- C. Location.** Off-street parking facilities shall be located, on the same lot with or an adjacent lot to, the parking generator they are required to serve. The Zoning Administrator, upon application, can permit the location of parking facilities at a greater distance, as add to not impair the functional value of such parking facilities.
- D. Units of Measurement.** For the purpose of the Article “Floor Area” in the case of commercial and industrial uses shall mean the gross building area used, or intended to be used, for services to the public as customer, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for show windows, for offices incidental to the management or maintenance of stores or buildings for toilet or rest rooms, for utilities, or for dressing rooms, fitting or alteration rooms. In stadiums, sports areas, Churches, and other places of assembly in which patrons, or spectators occupy benches, pews, or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one seat.
- E. Change in Use - Addition and Enlargements.** Whenever in any building there is a change in use, or an increase in floor area or in the number of employees or other unit of measurement specified hereinafter for the purposes of determining

the number of required off-street parking spaces and such change or increase creates a need for an increase of more than ten (10) percent in the number of off-street parking spaces as determined by the requirements of the Article, additional off-street parking spaces shall be provided on the basis of the increased requirements of the new use, or in the basis of the increase in floor area or in number of employees or in other units of measurement.

- F. Mixed Occupancies.** In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately.
- G. Collective Provisions.** Nothing in this Article shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses, provided that the total of such off-street parking spaces supplied collectively, shall not be less than the sum of the requirements for the various uses computed separately.
- H Joint Use.** Parking facilities required for a church, theater, bowling alley, dance hall, etc., may be provided wholly or in part by off-street parking facilities serving other uses, such as banks, business offices, retail stores personal service shops, household equipment or furniture shops. Manufacturing buildings, and similar uses which are not normally open, used or operated during the same principle operating hours for churches or theaters or for the aforementioned establishments. Such joint use may be authorized by the Board of Appeals upon application showing that participating uses will be adequately served by such joint facilities, and which application shall be accompanied by a properly drawn legal instrument executed by the parties concerned for the joint use of off-street parking facilities. In no case will the number of required car spaces permitted to serve jointly be less than the greatest requirement of this Article or any one participating establishment.

SECTION 9.02 PARKING SPACES REQUIRED.

The number of off-street parking spaces required shall be as set forth in the following:

A. RESIDENTIAL

	Use	<u>Number of Parking Spaces Per Unit of Measure</u>

a.	One family, two family, multiple family, mobile home	Two for each dwelling unit for one and two family and mobile home, 1½ per dwelling unit for multiple family
b.	Housing for elderly	One for each two units, and one for each employee.
c.	Manufactured Housing Community	As provided by the Manufactured Housing Code

B. INSTITUTIONAL

	Use	<u>Number of Parking Spaces Per Unit of Measure</u>
a.	Churches or temples	One for each three seats in the main unit for worship.
b.	Nursing, convalescent homes	One for each four beds.
c.	Clinics	Four for each doctor, plus one for each employee.
d.	Elementary and junior high schools	One for each teacher, administrator or other employee, in addition to the requirements of the auditorium.
e.	Senior High Schools	One for each teacher, administrator or other employee, and one for each ten students, in addition to the requirements of the auditorium.
f.	Private clubs, swimming pool clubs, or other similar uses	One for each two members' families or individuals plus as required spaces for each accessory use, such as a restaurant or bar.
g.	Golf courses open to the general public, except miniature or "par-3" courses	Four for each one golf hole, plus one for each two employees.

h.	Nursery or child care centers	One for each 350 square feet of floor area.
i.	Libraries, post offices	One for each 800 square feet of floor area, plus one for every four employees.

C. BUSINESS and COMMERCIAL

	Use	<u>Number of Parking Spaces Per Unit of Measure</u>
a.	Planned shopping center	One for each 100 square feet of floor area
b.	Miniature or “par-3” golf	Three for each one golf hold courses plus one for each employee.
c.	Beauty parlor or barber shop	Two for each beauty and/or barber shop chair.
d.	Bowling alleys	Four for each alley, plus one for each employee, plus accessory uses.
e.	Dance halls, pool and billiard parlors, roller rinks, exhibition halls without fixed seats	One for each two persons allowed within the maximum occupancy as established by fire, building or health codes.

	Use	<u>Number of Parking Spaces Per Unit of Measure</u>
f.	Restaurants, cafeterias, taverns, bars	One for each 75 square feet of floor area.
g.	Furniture and appliance, household equipment, hardware, repair shops, shoe repair, and other similar uses	One for each 800 square feet of floor area.
h.	Gasoline service station and automobile repair garages	One for each service and repair stall, plus one for each worker on each shift.
i.	Laundromats and coin operated dry cleaners	One for each two washing or dry-cleaning machines
k.	Mortuary establishments	One for each 50 square feet of floor area.
l.	Motel, hotel, tourist home	One for each sleeping unit, plus one for each one employee, plus restaurant requirements, if applicable.
m.	Retail stores, except as otherwise specified herein	One for each 300 square feet of floor area.
n.	Motor vehicle sales and service establishments	One for each 200 square feet of floor area of sales room and one for each auto service stall in the service room.

D. OFFICES

	Use	<u>Number of Parking Spaces Per Unit of Measure</u>
a.	Banks, except drive ins	One for each 200 square feet of floor area.
b.	Business or professional office, except doctors, dentists, or similar professionals	One for each 200 square feet of floor area.

c.	Professional offices of doctors, dentists, or similar professionals	One for each 200 square feet of floor area.
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E. DRIVE-INS

	Use	<u>Number of Parking Spaces Per Unit of Measure</u>
a.	Drive-in banks, cleaners, car laundries, and similar businesses	Storage space for five cars between the street right-of-way and the customer service area.
b.	Drive-in restaurants	One for each 100 square feet of floor area.

F. INDUSTRIAL

	Use	<u>Number of Parking Spaces Per Unit of Measure</u>
a.	Industrial or manufacturing establishments, research and testing laboratories, and related accessory offices	Five, plus one for each one employee in the largest working shift.
b.	Warehouses or wholesale establishments, and related accessory offices	Five, plus one for every one employee in the largest working shift or one for each 1,000 square feet of floor area, whichever is greater.

G. Similar Uses. The Zoning Administrator shall establish the minimum parking requirements for uses not listed in the preceding table, based on the uses most similar.

SECTION 9.03 PARKING AREAS, DEVELOPMENT, AND MAINTENANCE

Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:

- A. Property within the setback area may be used for parking and the display of new merchandise only. When off-street parking area for five or more vehicles faces across a street or an alley or abuts on a lot in a Residential District, the parking area shall adhere to the front yard or side yard requirements of the district on which it faces or abuts.
- B. Off site parking areas: The establishment and operation of an off site accessory

parking area may be authorized by the Zoning Administrator as a necessary use, when off site abut either directly or across an alley on land in Zone R or A-R. In serving the needs of Zone C establishments, parking areas shall be so designated and operated as to have the minimum detrimental effect on adjoining Zone R or A-R properties. Requirements such as surfacing, lighting, screening and/or landscaping may be required as the Zoning Administrator may deem necessary for the protection of the neighboring property and the public interest. It is the intent of this article that such accessory parking lots shall be so arranged as to provide effective buffer zones between Zone C and Zone R or A-R districts.

SECTION 9.04 REQUIRED LOADING AND UNLOADING SPACES

There shall be provided adequate space for standing, loading, and unloading of vehicles so that the public and private right-of ways will not be obstructed on. Provisions must be made to manipulate vehicles of maximum legal length without obstructing public right-of way traffic.

SECTION 9.05 ZONING ADMINISTRATOR AND ZONING BOARD OF APPEALS

The decision as to meeting the required parking and loading requirements shall be made by the Zoning Administrator subject to appeal to the Zoning Board of appeals.

ARTICLE TEN: SUPPLEMENTARY PROVISIONS

SECTION 10.01 NON-CONFORMING USES

Any non-conforming use of land, premises, building or structures which is discontinued for a period of 12 months shall be construed as abandonment of use, following which the use thereof shall conform to the requirements of the Zoning District wherein located. Buildings or structures in which a conforming use is conducted but which buildings and structures are of themselves non-conforming as to lot size, front yard, rear yard and side yards may be repaired and restored if damaged by fire, flood, wind, earthquake or other calamity or act of God.

SECTION 10.02 PRE-EXISTING LOTS.

Where any lot has less area, width or depth than required by this Ordinance, as of the effective date of this Ordinance, the Zoning Administrator may reduce proportionately the required side, front and rear yard requirements. Whenever more than fifty (50) per cent of the buildings on either side of a lot for a distance of two hundred (200) feet on each side are closer to the front lot line than required by this Ordinance, the Zoning Administrator may reduce the front yard requirements to allow building to be located at the average setback of the buildings located two hundred (200) feet on each side of the proposed building site.

SECTION 10.03 CHANGE OF NON-CONFORMING USE

No non-conforming use shall be changed to other than a conforming use, nor shall any such use so changed be reverted to the former non-conforming use, except in conformance with the terms of this **Section 10.03**.

- A. If a non-conforming use or building or structure is changed to a permitted or more restrictive use in the zoning district in which it is located, it shall not revert or be changed back to a non-conforming less restrictive use.
- B. Whenever the boundaries of a zoning district shall be changed by amendment to this Ordinance so as to transfer land from one district to another of a different classification or having different regulations, lawful buildings and structures and lawful uses of buildings, structures and lands existing on the effective date of such amendment shall become non-conforming buildings or structures or uses of buildings or structures or uses of land as a result of the boundary changes.

SECTION 10.04 AREA LIMITATIONS

In conforming to land and yard requirements, no area shall be counted as accessory to more than one dwelling or main building except as provided for off-street parking in **Article Nine**.

SECTION 10.05 ACCESSORY BUILDINGS

All accessory buildings and structures attached to the principal use and/or principal building or structure, including breezeways and carports shall be considered a part of the main building or structure in determining yard requirements. No front yard shall be employed, occupied, or obstructed by accessory buildings or structures of storage. In all districts except the Agriculture-Residential district, an accessory building shall not be constructed prior to the principal building.

SECTION 10.06 SIGNS – GENERAL PROVISIONS

Except as hereinafter provided, no sign or other outdoor advertising media shall be erected or maintained on any property in Hart Township that does not comply with the setback regulations for the Zoning District involved.

- A. Location:** Signs shall be erected within the required front or side yard of the zoning district involved.
- B. Maintenance.** All signs will be well maintained and it shall be the responsibility of the landowner to see that all permits are obtained and zoning regulations are adhered to.
- C. Maximum size.** Any signs separately erected are considered accessory structures. Signs larger than thirty-two (32) square feet. (outside measurements) including framing shall require a zoning permit to be obtained from the Zoning Administrator.
- D. Lighting.** Signs may be illuminated but are restricted from using flashing or pulsating lights. Lighting used will be of a constant type. Illuminated signs are prohibited in all Residential Districts.
- E.** No more than one double faced sign shall be attached to one common supporting structure for the purpose of determining sign size for this ordinance.

SECTION 10.07 SIGNS – RESIDENTIAL PROPERTY

Signs advertising the rental or sale of residential property shall be located only on the property advertised and shall be limited to one (1) sign not exceeding six (6) square feet in area located outside the road or street right-of-way line.

SECTION 10.08 SIGNS – AGRICULTURAL PROPERTY

All signs shall conform with the requirements of Section 10.06 hereof pertaining to size, setback, etc. with the following exceptions:

- A. Temporary signs advertising for farm markets for the sale of fruits and vegetables in season.
- B. Agricultural related signs selling machinery, seeds, farm-produced products such as honey, firewood, etc.
- C. Test plot signs.
- D. No trespassing or no hunting signs.
- E. Or any signs directly related to the permitted and present use of the property on which they are placed will be permitted within the required front yard or side yard setback as long as they are no larger than sixteen (16) square feet and erected off of the road right-of-way. Under no circumstance may any sign erected in Agricultural-Residential districts exceed thirty-two (32) square feet in size.

SECTION 10.09 SIGNS – COMMERCIAL PROPERTY

Signs on commercial property may be erected within thirty (30) feet of the front lot line but no closer than thirty (30) feet from either side lot line.

Such signs may be illuminated, provided that such illumination shall be approved in advance by the County Road Commission which shall make certain that light intensity and color are not distracting to motor operators so as to constitute a traffic hazard.

No signs shall be erected in a clear vision area as defined herein.

Signs shall be installed so as not to obstruct vision or create a safety hazard.

Signs on Commercial property shall be no larger than ninety-six (96) square feet.

Signs in the Commercial district shall not exceed twenty-five (25) feet in height, except as provided in paragraph G below.

Commercial establishments within three thousand one hundred twenty (3,120) feet of the exit or entrance ramp of an interchange with a limited access highway shall be permitted one freestanding sign on its premises as long as it meets the following standards:

Such sign shall not exceed one hundred twenty-eight (128) square feet in area.

Such sign shall have a minimum clearance between the ground and the bottom of the sign of eight (8) feet.

If total height of such sign exceeds twenty-five (25) feet, a licensed professional engineer or architect shall seal the site plan to certify that the structure is designed in conformance with all required building codes and standards of professional care.

In all other instances, not more than one commercial advertising sign shall be permitted on any one separately described parcel.

SECTION 10.10 SIGNS – INDUSTRIAL PROPERTY

Identifying and advertising signs not exceeding ninety-six (96) square feet in area may be erected under the following conditions:

- A. Signs on industrial property may be erected thirty (30) feet of the front lot line but no closer than thirty (30) feet from either side lot line.
- B. Such signs may be illuminated, provided that such illumination shall be approved in advance by the County Road Commission which shall make certain that light intensity and color are not distracting to motor operators so as to constitute a traffic hazard.
- C. No signs shall be erected in a clear vision area as defined herein.
- D. Signs shall be installed so as not to obstruct vision or create a safety hazard.
- E. Signs on Industrial property shall be no larger than ninety-six (96) square feet.

SECTION 10.11 SIGNS – ORGANIZATIONS AND INSTITUTIONS

Churches, schools, institutions, clubs, and similar organizations may erect one (1) sign to serve identification, not to exceed twenty (20) square feet in area. One freestanding sign

or bulletin board not attached flat to a wall of the main building shall also be permitted when located not less than thirty (30) feet from any property line.

SECTION 10.12 ESSENTIAL SERVICES

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of essential service shall be permitted as authorized or regulated by law and other ordinances of the Township of Hart in any use district, it being the intention hereof to except such erection, construction, alteration and maintenance from the application of this Ordinance. Essential services does not include cellular towers or accessory buildings larger than 101 square feet, these require a special use permit.

SECTION 10.13 SHARED DRIVEWAYS

- A. Not more than three (3) parcels may be served by a shared driveway, as defined in this ordinance. Such shared driveway shall not be required to meet the requirements of Section 12.29 pertaining to private roads. A shared driveway shall be located in a permanent recorded easement. The shared driveway easement shall be a minimum of sixty-six (66) feet in width and shall not be located so as to create a parcel of land which does not meet the dimensional requirements of this Zoning Ordinance. Provided, however that a shared driveway may be located within an easement of lesser width if subject to a permanent deed restriction to prevent further extension to any additional parcels.
- B. The improved surface of a shared driveway shall be located and constructed a minimum of fifteen (15) feet from any adjoining lot or parcel which does not derive access from the easement or private road.

SECTION 10.14 HOME OCCUPATIONS

- A. **Non-Intrusive Home Occupations.** A home occupation as defined herein which meets the standards set forth in Section 10.14, B, shall be permitted as a use by right in Residential, Agricultural-Residential and Manufactured Housing Community districts. Upon a determination by the Zoning Administrator that such use meets the standards of Section 10.14, B, the Zoning Administrator shall issue a Certificate of Approval for such home occupation. Provided, however, that in the event the Zoning Administrator subsequently determines that such no longer meets the standards of Section 10.14, B, such Certificate of Approval shall

be suspended pending a review and approval of the Home Occupation as a Special Land Use, subject to the provisions of Section 12.16.

- B. A Home Occupation shall be determined to be non-intrusive if it meets the following standards:
1. All activities of the home occupation shall be carried out within the dwelling unit or within an approved accessory building on the property.
 2. No outdoor storage of raw materials, work in process or scrap shall be permitted.
 3. Outdoor display of finished goods shall be permitted during daylight hours only and all such goods shall be removed from an outdoor display area every night. The outdoor display of such finished goods shall not occupy more than two hundred (200) square feet. No outdoor display area shall be located within the front, side or rear setback of the district.
 4. One unlighted sign with total surface area not to exceed sixteen (16) square feet may be permitted for a home occupation. Such sign shall be located either outside the front, rear and side yard setback or, if affixed to the mailbox post, such sign shall not exceed five (5) square feet in area.
 5. The parking required and the traffic generated by such Home Occupation shall not be greater than would typically result from a single family home.
 6. The Home Occupation shall not employ any persons other than the residents of the principal dwelling on the site.

SECTION 10.15 OPEN SPACE PRESERVATION DEVELOPMENT

Detached Single Family Residential Open Space Preservation developments shall conform to the provisions of Article 11 of this Ordinance. The terms of this Section 10.15 are intended to offer an optional open space preservation approach to such residential development patterns.

- A. Land zoned for residential development equivalent to 2 or fewer dwelling units per acre, or if the land is served by a public sewer system, 3 or fewer units per acre, may be developed, at the option of the land owner, with the same number of dwelling units on a portion of the land as allowed by the zoning district.
- B. A percentage of the land area not less than 50% of the parcel, excluding a fixed percentage for street right-of-way purposes, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land.
- C. The maximum number of lots that may be approved shall be computed by subtracting from the site's total gross acreage a fixed percentage of 15% for street right-of-way purposes, and multiplying the remaining area by the maximum

dwelling unit density available for the district in accord with the following table:

Maximum Density Zoning District Acre)	(Dwelling Units Per
Residential	2 (without central water and sewer) 3 (with central water and sewer)
Ag. Residential sewer)	0.75 (without central water and 2 (with central water and sewer)

- D. Lot area may be reduced up to 50% of the required lot area and lot width may be reduced up to 33% of the required lot width in the district.

ARTICLE ELEVEN: SITE PLAN REVIEW

SECTION 11.01 PURPOSE

It is the purpose of this Article to require site plan approval for buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and land uses, and on the character of future development. It is further the purpose of this Article to achieve, through site plan review, safe and convenient traffic movement, harmonious relationships of buildings, structures and uses, and the conservation of natural features and resources.

SECTION 11.02 USES REQUIRING SITE PLAN APPROVAL

The following buildings, structures and uses require site plan approval by the Planning Commission:

- A. All Special Land Uses and Planned Unit Developments in all zoning districts.
- B. All uses in the Commercial, Industrial and Manufactured Housing Community District.
- C. Any use including parking areas with twenty (20) or more parking spaces.
- D. All platted subdivisions or condominium subdivisions or any proposed expansion thereof.

SECTION 11.03 SITE PLAN REQUIREMENTS

Each site plan submitted shall contain the following information, unless specifically waived by the Planning Commission, in whole or in part:

The plan preparation and revision dates, north arrow, and graphical and numeric scale.
The scale shall be not less than one inch (1") = twenty (20) feet for property under three (3) acres and at least one inch (1") = one hundred (100) feet for those three (3) acres or more.

A survey of the property showing all lot and/or property line dimensions and bearings, easements of record, required setbacks and a written legal description. Provided, however, that upon a finding by the Zoning Administrator that a survey shall be unnecessary for the effective review of a site plan by the Planning Commission, the requirement for a survey may be waived by the Zoning Administrator with the

approval of the Planning Commission.

The location and height of all existing and proposed structures on, and within one hundred (100) feet of, the subject property's boundary. The location of natural features on and within one (100) feet of the property boundary including, but not limited to, woodlots, streams, lakes, ponds, floodplains, county drains, and the existing topography at two (2) foot intervals. The site plan shall include a notation of which, if any, of the existing structures are to be retained and which, if any, are to be removed.

The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, acceleration and deceleration lanes, parking areas, (the dimensions of a typical parking space), unloading areas, recreation areas, common use areas, and areas to be conveyed for public use and purpose.

The location and pavement width and right-of-way width of all existing and abutting roads, streets, alleys or easements and all proposed public and private roads and their proposed street names.

The name, telephone number and address of the individual or firm responsible for the preparation of the site plan. Prior to the issuance of a Certificate of Approval for any use requiring site plan approval, the final site plan approved by the Planning Commission shall bear the seal of the responsible licensed professional engineer, land surveyor or architect.

The name, address and telephone number of the property owner and applicant.

A locational sketch showing the general area within a one half (1/2) mile radius of the boundaries of the development area including the respective zoning abutting the subject property.

The location, height and types of fences, walls and landscaping. Typical straight cross-sections including slope, height and width of any berms and type of ground cover and the height, location and type of all proposed plantings.

Size and location of existing and proposed utilities, including proposed connections to public sewer or water supply systems.

The location and size of all surface water drainage facilities.

The site plan shall include existing and proposed contours shown at two (2) foot intervals. Provided, however, that upon a finding by the Zoning Administrator that an illustration of existing and proposed contour on the site at two (2) foot

intervals shall be unnecessary for the effective review of a site plan by the Planning Commission, this requirement may be waived by the Zoning Administrator with the approval of the Planning Commission.

Building elevations including floor plans and a site data chart which compares the existing and proposed improvements to the lot area, setback, and building height requirements of the zoning district and the off-street parking calculations.

A written statement describing the characteristics of the proposed development. For residential developments, the project statement shall describe the number of dwelling units, bedroom mix, parking arrangements and the type and amount of recreational open space. For nonresidential developments, the project statement shall describe the intended use(s), hours of operation, the gross and useable floor areas, and the number of employees per shift. All project statements shall describe how the project will conform with all federal, state and local licenses and permits requirements.

SECTION 11.04 REVIEW PROCEDURE

The proposed site plan shall be submitted in ten (10) copies to the Zoning Administrator who shall keep one copy of the proposed site plan and deliver one set each to the members of the Planning Commission. Two additional copies may be used for review by any engineering or planning consultants retained by the Township. The Planning commission shall consider the site plan along with the review comments of the Zoning Administrator and any special consultants or specialists serving the Township and shall make a recommendation for approval or disapproval of the proposed site plan to the Township Board. If the site plan is disapproved, the reasons for the disapproval shall be stated. Upon approval of a site plan, at least two copies of the site plan as finally approved shall be signed and dated by the Township Clerk and the applicant. One copy of the signed site plan shall be kept filed in the Township's records and the other returned to the applicant. Appeals of the decision of the Township Board shall be made to the Circuit Court within twenty-one (21) days after such decision.

SECTION 11.05 STANDARDS FOR SITE PLAN REVIEW

A. In reviewing a site plan, the Township Board shall determine whether the site plan is consistent with this Ordinance and in accordance with the Township Master Plan, and more specifically:

That the movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient.

That the site plan is harmonious with, and not injurious or objectionable to, existing and projected uses in the immediate area.

That the site plan shows the use will be adequately served by necessary improvements, including but not limited to, sewage collection and treatment, potable water supply, storm drainage, lighting, roads and parking.

That the site plan provides adequate measures to protect the health, safety, and general welfare of the persons and property on the site and in the neighboring community.

- B. The Township Clerk shall provide an affidavit of site plan (Certificate of Approval) approval, with any conditions noted, however the Clerk shall not sign the approved site plan until the applicant has submitted three copies of all permits which may be required by the county, township, federal or the state for the construction of the use.

SECTION 11.06 REGULATIONS

No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires a site plan approval, until an approved site plan has been signed by the Township Clerk and a Certificate of Approval has been issued by the Zoning Administrator.

**ARTICLE TWELVE: SPECIFIC STANDARDS AND
REQUIREMENTS
FOR SPECIAL LAND USES**

SECTION 12.01 SPECIAL USES.

A Special Use is a use that permitted within a specified zone district after meeting specific requirements listed in this **Article 12** of the Hart Township Zoning Ordinance. It is the purpose of this Article to provide general approval standards and procedures and to name, describe, and list any additional requirements for each individual special land use. Due to the nature of the use, Special Land Uses require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

Section 12.02 DATA REQUIRED FOR SPECIAL LAND USES APPLICATIONS:

A Special Land Use application shall be submitted and processed according to the following procedures:

- A. **Submission of Application:** An application shall be submitted to the Zoning Administrator on a Special Land Use Permit Application form. Upon receipt of a complete application, the Zoning Administrator shall place the request on the agenda for the next regularly scheduled Planning Commission meeting. A complete application under this Section shall be one that specifically addresses the items set forth in Articles Eleven and Twelve of this Zoning Ordinance.
- B. **Data Required:** A Special Land Use Application shall include the following information.
 - 1. A complete Site Plan containing all the applicable data required by Article Eleven.
 - 2. Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing Special Land Use Applications as provided in Article Twelve.
 - 3. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Land Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, traffic impact analysis, environmental impact assessments, or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.
- C. **Concurrent Review:** A Special Land Use Application and associated Site Plan

may be reviewed concurrently with the mutual consent of the Planning Commission and applicant.

SECTION 12.03 ACTION ON SPECIAL LAND USE APPLICATIONS:

- A. **Planning Commission Review:** At the first regularly scheduled meeting of the Planning Commission following the submission of a Special Land Use Application, the Planning Commission shall determine whether the application is complete. A complete application under this Section shall be one that specifically addresses all items set forth in **Section 12.02**.
- B. **Public Hearing Procedures:** Once the Planning Commission has determined that a complete Special Land Use Application has been received, the Planning Commission shall schedule a public hearing according to the following procedures:
1. **Notice published in Newspaper:** One notice of the public hearing on the Special Land Use Application shall be published in a newspaper of general circulation in the Township.
 2. **Notice to effected Property Owners and Residents:** Notice of the public hearing on the Special Land Use Application shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to which real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term occupant may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 3. **Content of Public Hearing Notice:** The required notices shall include the following information.
 - a. Description of the Special Land Use request;
 - b. Description of the property which is the subject of the Special Land Use Application;

- c. The date, time, and location of the Public Hearing on the Special Land Use Application; and,
 - d. The time and location for written comments to be received concerning the Special Land Use Application.
- C. **Planning Commission Action:** After the Public Hearing and upon review of the merits of the Special Land Use Application, the Planning Commission may recommend to the Township Board that it deny, approve, or approve with conditions the Special Land Use Application. The Planning Commission's recommendation shall be incorporated in a motion containing conclusions reached relative to the proposed Special Land Use which specifies the basis for the decision and any conditions imposed.
- D. **Basis for Action:** In arriving at its recommendation, the Planning Commission shall refer to and be guided by those standards set forth in this Article. If the facts regarding the Special Land Use establish by preponderance of the evidence that the standards and requirements set forth in the Article can not or will not be met by the proposed Special Land Use, the Planning Commission shall recommend denial of Special Land Use Application.
- E. **Attachment of Conditions:** The Planning Commission may recommend additional conditions deemed necessary for the protection of the general welfare, individual property rights, and to ensure that the purposes of this Ordinance are met.
- F. **Township Board Decision.** Following Planning Commission adoption of a recommendation pertaining to the Special Land Use Application, the Township Board shall consider the application at a regularly scheduled meeting. Such meeting shall occur not more than sixty (60) days following the adoption of a recommendation by the Planning Commission. The Township Board shall consider the recommendation of the Planning Commission and the standards and requirements of this Zoning Ordinance and shall approve, deny, approve with conditions or remand the application to the Planning Commission for further consideration.
- G. **Required Approval of Special Land Use:** A request for approval of a Special Land Use Application which is in compliance with all the standards of this Ordinance, other applicable ordinances, and state and federal statutes shall be approved.
- H. **Issuance of a Certificate of Approval:** A Certificate of Approval shall be issued by the Zoning Administrator upon approval of the Special Land Use by the Township Board. The Certificate of Approval shall be issued in accord with **Section 13.01** of this Zoning Ordinance and shall list all the conditions of

approval stipulated by the Planning Commission. A Site Plan approved in conjunction with a Special Land use shall be processed according to the procedures of Article Eleven.

- I. **Appeals:** No decision or condition related to a Special Land Use Application shall be taken to the Zoning Board of Appeals. An appeal of a Special Land Use decision or condition may be taken to the Circuit Court.

SECTION 12.04 STANDARDS FOR GRANTING SPECIAL LAND USE APPROVAL:

The Planning Commission, before adopting its recommendation, and the Township Board, before acting on a Special Land Use Application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Zoning Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The Planning Commission and the Township Board shall review each application for the purpose of determining that each proposed use meets the following general standards and the specific standards for such Special Land Use as set forth in this Article. In addition, the Planning Commission shall find adequate evidence that each use at its proposed location will be consistent with the public health, safety, and welfare of the Township and shall comply with the following standards:

- A. Will be harmonious with and in accordance with the goals, objectives and policies of the Township Master Plan.
- B. Will designed, constructed, operated and maintained in harmony with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
- C. Will not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
- D. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water and sewage facilities and schools or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
- E. Will not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.

- F. Will not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, glare or odors.
- G. Will ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications that result in maximum harmony with adjacent areas.
- H. Will meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.

SECTION 12.05 REAPPLICATION:

No Special Land Use Application, which has been denied wholly or in part by the Planning Commission, shall be resubmitted until the expiration of twelve (12) months or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions. A reapplication shall be processed in the same manner as the original application.

SECTION 12.06 SITE PLAN AMENDMENTS IN CONJUNCTION WITH A SPECIAL LAND USE:

The Site Plan, as approved, shall become part of the record of Special Land Use Approval, and subsequent actions relative to the activity authorized shall be consistent with the approved Site Plan, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and the Planning Commission. A Site Plan amendment shall be reviewed and considered in the same manner as the original Special Land Use Application, except as otherwise provided in this Ordinance.

SECTION 12.07 VALIDITY AND REVOCATION OF CERTIFICATES OF APPROVAL FOR SPECIAL LAND USES:

- A. **Validity of Permit:** A Certificate of Approval for a Special Land Use shall be valid for a period of twelve (12) months from the date of the issuance of said certificate. If construction has not commenced and proceeded meaningfully toward completion by the end of this twelve (12) month period, the Zoning Administrator shall notify the applicant in writing of the expiration of said permit; provided, however, that the Planning Commission may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction.

Once the Special Land Use is established and the conditions of the permit

fulfilled, the Special Land Use Permit shall be valid until such time that there is a change of conditions or use related to the permit.

- B. **Permit Revocation:** The Township Board, upon the recommendation of the Planning Commission shall have the authority to revoke any Certificate of Approval for a Special Land Use following a Public Hearing noticed according to the procedures provided in **Section 12.03,B**, if the holder of the permit has failed to comply with any of the applicable conditions specified in the certificate.

SECTION 12.08 – FEES.

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

SECTION 12.09 ADULT BOOK STORES AND ENTERTAINMENT BUSINESSSES.

- A. **Definitions.** Adult book stores and entertainment businesses (hereinafter Adult Businesses) include the following establishments or any combination thereof:
1. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion pictures machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas as defined in Article Two of this Zoning Ordinance.
 2. **Adult Bookstore or Adult Video Store:** A commercial establishment that,

as one of its principal business purposes, offers for any form of consideration any one or more of the following:

- a. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that area characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- b. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A Commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Business. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five (35) percent or more of yearly sales volume or occupies more than thirty-five (35) percent or more of the floor area or visible inventory within the establishment.

3. **Adult Cabaret:** A nightclub, bar, restaurant or similar commercial establishment that regularly features live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities; or film, video, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities of Specified Anatomical Areas; or Persons who engage in lewd, lascivious or erotic dancing or performance that are intended for the sexual interests or titillation of an audience or customers.
4. **Adult Motel:** A hotel, motel or similar commercial establishment that:
 - a. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that area characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public road right-of-way that advertises the availability of any of the above.
 - b. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
5. **Adult Motion Picture Theater:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes or video reproductions, slides, or other photographic

reproductions or visual media that area characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

6. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Sexual Activities or Specified Anatomical Areas.
7. **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 any form of consideration.
8. **Nude Model Studio:** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an education institution funded, chartered, or recognized by the State of Michigan.
9. **Sexual Encounter Center:** A commercial establishment that, as one of its principal business purposes, offers for any form of consideration, Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex involving the exposure of Specified Anatomical Areas or Specified Sexual Activities.

B. Regulations and Conditions. Adult Businesses are subject to the following standards:

1. The proposed Adult Business will not be located within one thousand (1,000) feet of any residence, residentially zoned property, park, school, child care organization, place of worship or other Adult Business. The distance between a proposed Adult Business and any residence, residentially zoned property, park, school, child care organization, place of worship or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed Adult Business is intended to be located to the nearest property line of the residence, residentially zoned property, school, child care organization, place of worship, or other Adult Business.
2. Entrances to the proposed Adult Business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that:
 - a. "Persons under the age of eighteen (18) are not permitted to enter the premises," and
 - b. "No alcoholic beverages of any type are permitted within the premises

unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

3. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining road right-of-way or a neighboring property.
4. Hours of operation shall be limited to 8:00 A.M. to 11:00 P.M., Mondays through Saturdays.
5. All signs shall be in accordance with **Section 10.09** of this Zoning Ordinance. Provided, however, that no sign visible from the nearest adjoining road right-of-way or a neighboring property shall display or depict any Specified Anatomical Areas or Specified Sexual Activities
6. All parking shall be in accordance with Article Nine of this Zoning Ordinance. Provided, however that all off-street parking areas shall be illuminated during all hours of operation of the Adult Business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
7. Any booth, room or cubicle available in any Adult Business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized as showing Specified Anatomical Areas or Specified Sexual Activities shall:
 - a. Be handicap accessible to the extent required by the Americans with Disabilities Act.
 - b. Be unobstructed by any door, lock or other entrance and exit control device.
 - c. Have at least one side totally open to a public; lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
 - d. Be illuminated by a light bulb of wattage not less than sixty (60) watts, and
 - e. Have no holes or openings, other than doorways, in any side or rear walls.

SECTION 12.10 AGRICULTURAL CHEMICAL AND FERTILIZER SALES

- A. **Definition:** A retail or wholesale use involving the bulk and packaged storage, blending, and distribution of agricultural chemicals and fertilizers including herbicides, pesticides, soil additives, organic and inorganic substances typically used in commercial agriculture operations.
- B. **Regulations and Conditions.**

1. The minimum lot size shall be one (1) acre and the minimum lot width shall be one hundred-fifty (150) feet.
2. Any outdoor storage or sales area which adjoins a residential district shall be enclosed with a six (6) foot fence, which fence shall be capable of containing debris, trash and other blowing objects.
3. The lot area used for display purposes shall have a permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.
4. All exterior lighting shall be shielded from adjacent residential areas.
5. All storage tanks or other facilities used to store hazardous, toxic, explosive or flammable substances shall be equipped with appropriate containment structures or equipment to prevent any migration of such substances into the groundwater or surface waters of the Township.
6. All signs shall comply with the provisions of **Section 10.09 and 10.10** of this Ordinance.
7. All off-street parking shall comply with **Article Nine** of this Ordinance.

SECTION 12.11 AUTOMOTIVE SERVICE STATION

A. Definitions: A structure, building, or parcel of land, or any portion thereof used for the retail dispensing or sale of vehicular fuels, lubricants or other flammable fuels, and including the repairing, cleaning, sewing, equipping, painting or diagnosing of motor vehicles when operated as a business.

B. Regulations and Conditions:

1. Parking or storage of inoperative vehicles shall be completely surrounded by an opaque fence six (6) feet in height.
2. Minimum road frontage of one-hundred fifty (150) feet shall be required.
3. Minimum lot area shall be increased five-hundred (500) square feet for each fuel pump unit in excess of four (4), and one-thousand (1,000) square feet for each service bay in excess of two (2), and three-hundred (300) square feet for each parking space intended for the storage of inoperative vehicles.
4. All buildings and accessory structures including gasoline pumps shall be setback fifty (50) feet from any lot line and seventy-five (75) feet from any street right-of-way line in the Commercial District and one hundred (100) feet in the Industrial District.
5. All equipment including hydraulic hoist, pits, and oil lubrication, greasing

and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment.

6. All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
7. There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases.
8. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
9. All areas used for the storage or movement vehicles shall be provided with a dust-free surface.
10. All signs shall comply with **Section 10.09 and 10.10** of this Ordinance.
11. All parking areas shall comply with **Article Nine** of this Ordinance.

SECTION 12.12 BUS TERMINALS

A. Definitions: A structure, building, or parcel of land, or any portion thereof which is used for the storage or parking of motor-driven commercial buses and the loading and unloading of passengers and which may include ticketing facilities, restaurants, restrooms and retail sales.

B. Regulations and Conditions.

1. A Bus Terminal shall have at least one (1) direct access to a paved, all-season public roadway.
2. All exterior lighting fixtures shall be equipped with cut-off features to prevent light from casting off the site.
3. Any area where busses are permitted to rest with engines idling for more than five (5) minutes at a time shall be located not less than two hundred (200) feet from any property line that abuts lands zoned or used for residential purposes.
4. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
5. All areas used for the storage or movement vehicles shall be provided with

a dust-free surface.

6. All signs shall comply with **Section 10.09 and 10.10** of this Ordinance.
7. All parking areas shall comply with **Article Nine** of this Ordinance.

**SECTION 12.13 CLEANING AND LAUNDRY ESTABLISHMENTS –
COMMERCIAL OR INDUSTRIAL**

A. Definitions: A commercial establishment providing cleaning, dry cleaning and laundry services on-site for businesses and residents.

B. Regulations and Conditions.

1. The minimum lot size shall be one (1) acre and the minimum lot width shall be two hundred (200) feet.
2. All exterior lighting shall be shielded from adjacent residential areas.
3. All storage tanks or other facilities used to store hazardous, toxic, explosive or flammable substances shall be equipped with appropriate containment structures or equipment to prevent any migration of such substances into the groundwater or surface waters of the Township.
4. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
5. All parking areas and driveways shall be provided with a dust-free surface.
6. All signs shall comply with **Sections 10.09 and 10.10** of this Ordinance.
7. All parking areas shall comply with **Article Nine** of this Ordinance.

SECTION 12.14 DWELLINGS MULTI-FAMILY,

A. Definitions: A dwelling occupied by more than one (1) family and so designed and arranged as to provide independent living, cooking, and kitchen accommodations for each family unit.

B. Regulations and Conditions.

1. The minimum lot size shall be fifteen thousand (15,000) square feet for the first dwelling unit and two thousand (2,000) square feet for each additional dwelling unit with a minimum lot width of one hundred (100) feet and a depth to width ratio not to exceed four to one.
2. The dwelling(s) shall have direct access to a public roadway or an approved private road.
3. The water supply and wastewater disposal systems for the dwelling(s) shall receive the approval of the Department of Health.
4. The development shall provide off-street parking on a smooth dust-free surface in accord with **Article 9** of this Zoning Ordinance

SECTION 12.15 FUEL STORAGE FACILITIES

- A. **Definition:** A commercial operation including the storage and sale of liquid propane gas, petroleum fuels and lubricants and the sale and lease of bulk gas containers.
- B. **Regulations and Conditions:**
 1. Fuel Storage facilities shall be properly licensed and inspected as provided by Federal, State and Local law and the rules and regulations promulgated thereunder.
 2. No Fuel Storage facility shall be permitted under the terms of this Ordinance until documentation is provided that all required Federal, State and Local licensing requirements have been fulfilled.
 3. A Fuel Storage facility shall be located on an all-season paved State highway or an all-season paved County Primary Road.
 4. No fuel storage or dispensing equipment or operations shall be located or carried out within one hundred (100) feet from any lot line or road right-of-way line.
 5. The minimum lot size for a Fuel Storage facility shall be two (2) acres. The minimum road frontage for a Fuel Storage facility shall be three hundred (300) feet.
 6. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
 7. All signs shall comply with **Sections 10.09 and 10.10** of this Ordinance.

8. All parking areas shall comply with **Article Nine** of this Ordinance.

SECTION 12.16 HOME OCCUPATION

A. Definition: An activity carried out for remuneration by a resident conducted as an accessory use in the resident's dwelling unit or accessory building.

B. Regulations and Conditions:

1. Home occupations that may, in the judgment of the Zoning Administrator, generate impacts on surrounding property, shall be reviewed by the Planning Commission as a special land use, subject to the terms of this Section and **Section 12.04**. The Planning Commission shall review and approve the proposed Home Occupation and, if approved, shall direct the Zoning Administrator to issue a Certificate of Approval on behalf of the Township, if it finds that the proposed home occupation meets the following standards.
 - a. All activities of the home occupation, other than storage, shall be carried out within the dwelling unit, within an approved accessory building on the property and, or within an area of the site screened from view from surrounding properties and the road by year-round plantings or opaque fencing.
 - b. Any area used for the outdoor storage of raw materials, work in process or scrap shall be completely screened from view with plantings or opaque fencing.
 - c. Lighting of any area used for outdoor display of finished goods shall be screened from view from adjoining properties. The outdoor display of such finished goods shall not occupy more than one thousand (1,000) square feet. No outdoor display area shall be located within the front, side or rear setback of the district.
 - d. One unlighted sign with total surface area not to exceed thirty-two (32) square feet may be permitted for a home occupation. Such sign shall be located in accord with **Sections 10.06 through 10.10** of this Zoning Ordinance.
 - e. The applicant shall demonstrate the sufficiency of parking for the proposed home occupation and all such parking areas shall be provided with a firm, dust-free surface.
 - f. The Home Occupation shall not employ more than four (4) persons other than the residents of the principal dwelling on the site.
2. A home occupation originally approved by the Zoning Administrator

pursuant to Section 10.14 but which has expanded such that, in the judgment of the Zoning Administrator, it may generate impacts on surrounding properties, shall be reviewed by the Planning Commission as a special land use, subject to the provisions of this Section 12.16.

3. Notwithstanding the terms of Section 12.03, approval of Home Occupations as special land uses under this section shall not require the approval of the Township Board.

SECTION 12.17 INDOOR AND OUTDOOR RECREATION FACILITIES

A. Definition: Establishments for indoor or outdoor recreation and receptions including, but not limited to, bowling alleys, golf courses, dance halls, outdoor concert facilities, reception halls, dude ranches, gun and skeet clubs; buildings for fraternal organizations or societies; public and/or private or institutional recreational areas such as golf courses, archery ranges, country clubs, parks, ski and snowmobile facilities, recreation camps, reservations, recreation trails, athletic fields and courts, golf driving ranges, and similar uses. Facilities may be operational during day and evening hours and may provide dining and beverage services.

B. Regulations and Conditions:

1. Access to the facility shall be directly from a public road.
2. Public access to the site shall be located a minimum of two hundred (200) feet from any intersection (as measured from the nearest intersecting right-of-way line to the edge of said access).
3. Prior to occupancy, all required state and local licensing and permitting requirements shall be met and documentation of such licensing and approval shall be provided to the Zoning Administrator.
4. If any structures or parking areas associated with the proposed facility abut a residential land use or lands located in the Residential of Manufactured Housing Community districts, a landscape buffer not less than ten (10) feet wide and consisting of conifer trees capable of providing a permanent opaque screen within three (3) years shall be provided along all side and rear property lines which abut such residential uses or districts.
5. Operation of any outdoor activity shall be limited to daylight hours.
6. No activity associated with the facility shall produce a noise at a level in excess of that permitted by the Township noise ordinance at any property boundary.
7. All signs shall be in accordance with **Sections 10.08, 10.09 and 10.10** of this Zoning Ordinance.
8. All parking shall be in accordance with **Article Nine** of this Zoning

Ordinance.

SECTION 12.18 MAJOR UTILITY FACILITIES

A. Definition: Establishments for the provision of water, wastewater treatment, solid waste processing and disposal, electrical power generation and similar activities. Wireless telecommunications facilities and antennae are not included in this definition.

B. Regulations and Conditions.

1. Buildings, towers and other above-grade facilities shall conform harmoniously with the general architecture and plan of the neighborhood in which they are located.
2. If any structures or parking areas associated with the proposed facility abut a residential land use or lands located in the Residential of Manufactured Housing Community districts, a landscape buffer not less than ten (10) feet wide and consisting of conifer trees capable of providing a permanent opaque screen within three (3) years shall be provided along all side and rear property lines which abut such residential uses or districts.
3. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site.
4. No activity associated with the facility shall produce a noise at a level in excess of that permitted by the Township noise ordinance at any property boundary.
5. No activity associated with the facility shall produce any odors or fumes detectable by the Zoning Administrator at any adjoining property zoned or used for residential purposes.

SECTION 12.19 OUTDOOR LUMBER YARDS AND BUILDING SUPPLIES

A. Definitions: Such facilities include retail wholesale businesses that store, display, exhibit and demonstrate lumber, building products and raw materials outdoors.

B. Regulations and Conditions:

1. The minimum lot size shall be one (1) acre and the minimum lot width shall be two hundred (200) feet.
2. Such facilities shall be enclosed with a six (6) foot solid fence along the rear and sides of the lot, which the fence shall be capable of containing debris, trash and other blowing objects.

3. The lot area used for display, storage and/or parking shall have a permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.
4. All exterior lighting shall be shielded from adjacent residential areas.
5. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
6. Materials may not be stored or exhibited within the front, side or rear yard setbacks.
7. Any such facility which involves hazardous materials shall comply with the following requirements, in addition to the foregoing:
 - a. No storage of hazardous materials shall be permitted under the terms of this Ordinance until documentation is provided that all required Federal, State and Local licensing requirements have been fulfilled.
 - b. Any such business involving hazardous materials shall be located on an all-season paved State Highway or an all-season paved County Primary Road.
 - c. Hazardous Materials in containers with capacities of five (5) gallons or more, or fifty (50) pounds or more, shall be stored not less than one hundred (100) feet from any lot line.
8. All signs shall be in accordance with **Sections 10.09 and 10.10** of this Zoning Ordinance.
9. All parking shall be in accordance with **Article Nine** of this Zoning Ordinance.

SECTION 12.20 OUTDOOR VEHICLE SALES

- A. Definition.** Establishments offering for sale to the public new and used automobiles, trucks, recreational vehicles, campers, “fifth wheels,” All-Terrain Vehicles, Motorcycles, motorized and non-motorized boats.
- B. Regulations and Conditions.**
 1. The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:
 - a. Uses shall produce no detectable objectionable dust, fumes or odors at any

- property line.
- b. All travel surfaces shall be paved or otherwise treated to control dust.
 - c. No exterior fixture shall cast light off the property and no light source shall be visible from any surrounding residential land uses. Building surface reflectivity shall be no greater than one (1) foot candle.
 - d. No off-site discharge of stormwater except to approved drainage system in accord with the requirements of the Oceana County Drain Commissioner.
 - e. No activity associated with the facility shall produce a noise at a level in excess of that permitted by the Township noise ordinance at any property boundary.
2. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
 3. For facilities located on a lake and selling boats or personal watercraft, the Planning Commission may establish restrictions on operations intended to preserve the peaceful use of the lake by all residents and to protect water quality in the lake.
 4. All signs shall be in accordance with **Sections 10.09 and 10.10** of this Zoning Ordinance.
 5. All parking shall be in accordance with **Article Nine** of this Zoning Ordinance.

SECTION 12.21 PLANNED UNIT DEVELOPMENT

- A. **Intent.** Traditional zoning may not be appropriate for larger scale or multi-use projects. Therefore, the Planned Unit Development is a method by which creative large scale development of land is encouraged in appropriate locations. The PUD is a device, which makes use of varying lot sizes and integrates different building structures. Typically, structures in these developments are clustered in such a manner as to achieve the same overall density that would be achieved if the developer had laid out the development in the conventional grid-zoning pattern. In addition to the clustered structures, open spaces are provided to insure recreational opportunities. The general objectives of this Article are as follows:
1. To encourage compatible and consistent designs and uses with the surrounding areas, and to provide for regulations of land use which are not otherwise specified or authorized in the Zoning Ordinance.
 2. To provide more desirable living, shipping and working environments by preserving the natural character of open fields, stands of trees, brooks, ponds, flood plains, hills and similar natural assets.

3. To encourage with regard to residential use the provision of open space and the development of recreational facilities, and commercial facilities in a generally central location within reasonable distance of all lining units.
4. To encourage developers to use a more creative and imaginative approach in the development of residential areas, especially through the mixture of several housing types in one development.
5. To encourage underground utilities, which can be more efficiently designed when, master planning a larger area.
6. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the township.
7. To promote more efficient and aesthetic use of open areas.

B. Permitted Uses. The following uses may be permitted within the districts in which the PUD is located:

1. **Agricultural Residential.** All uses allowed by right within the Agricultural-Residential district, plus the following uses:
 - a. Residential platted and condominium subdivisions, including Mobile Home Parks.
 - b. Multi-family dwellings.
 - c. Recreational facilities.
 - d. Public and private campgrounds.
 - e. Site condominiums.
 - f. Child care facilities.
 - g. Clubhouse and golf course.
 - h. Condominiums.
 - i. Churches.
 - j. Medical Clinics.
 - k. Assisted living facilities
2. **Residential Districts.** All uses allowed by right within the Residential District plus the following uses:

- a. Multi-family dwellings, including Mobile Home Parks.
- b. Specialty shops and services.
- c. Condominiums and site condominiums.
- d. Recreational facilities.
- e. Child care facilities.
- f. Churches
- g. Medical clinics
- h. Assisted living facilities

3. **Commercial and Industrial Districts.** All uses allowed by right in their respective district.

4. No use, accessory or secondary to the primary use of the Planned Unit Development, shall be initiated until fifty per cent, (50%) of all permitted uses have been completed.

5. The planning Commission may have the discretion to allow mixed use developments provided that no more than twenty-five per cent (25%) of the land and floor area of the proposed PUD is devoted to a use that is not specifically permitted in this Section.

C. **Required Conditions.** The following minimum conditions and requirements shall be complied with and shown on all plans and specifications:

1. The PUD shall not result in a material increase in public services or improvements for the property or in the adjacent area.

2. **Density.** The density of the Planned Unit Development shall not exceed the density of the district in which the proposed PUD is located except that the planning commission may authorize a density increase of up to fifteen per cent (15%) where evidence is documented which shows no adverse effect on public services and facilities, on adjacent properties, the natural environment or township plans, provided that an equal amount of land is preserved as usable open space (not including wetlands). In determining the gross site area of the proposed development, wetlands or lands within the flood plans shall not be included.

3. **Height.** Structures may exceed the height limitations within the underlying zoning district provided a minimum yard equal to the height of the building shall be maintained on all sides of the structure. Provided, further that the Chief of the Local Fire District shall review and approve all building heights

as a part of site plan approval.

4. Building spaces. The front, side and rear yard requirements of the District the PUD is located in shall serve as the building space standards for all PUD's although the Planning Commission shall have the discretion of altering these standards when necessary.
5. Usable open space. A usable open space area shall be provided within group housing developments. Such open space shall be provided at ground level, unoccupied by principal or accessory buildings and available to all occupants of the group housing development. Each open space area, so provided, shall have a minimum total area of one thousand five hundred (1,500) square feet and shall be unobstructed by structures to the sky. It shall not be devoted to service driveways or off street parking or loading space, but shall be usable for greenery drying yards, recreational space, and other leisure activity. Closed-in courts shall not be part of the open space requirements.
6. Lot area. Minimum site areas for a Planned Unit Development shall be as follows:
 - a. Residential PUD's shall have a minimum site area of five (5) acres.
 - b. Commercial PUD's shall have a minimum site area of three (3) acres.
 - c. Industrial PUD's shall have a minimum site area of five (5) acres and industrial parks shall have a minimum site area of twenty (20) acres.
 - d. Mixed use PUD's shall have a minimum site area of ten (10) acres.
7. Lot width. The minimum width for a lot used for group housing shall be that area necessary for achieving open space requirements and yard requirements.
8. Parking and signs. Off-street parking and signs shall meet the provisions of this Ordinance.
9. Environmental Design. Planned Unit Developments shall be designed to enhance environmental features such as the preservation of trees, flood plains, natural areas and shall promote proper site landscaping.
10. Circulation. Standards for circulation of traffic shall be specified by the Oceana County Road Commission. This shall include the relationship of internal circulation systems to external collectors and arterials, as well as the relationships of streets to structures. This shall also include standards governing private streets.

11. Utilities. Standards for water and sewer facilities shall vary due to geographical area and existing soil of proposed PUD's. The District Five Health Department and the Planning Commission shall establish and maintain standards for water and sewer.
12. Perimeter Area. To ensure the PUD is compatible with adjacent land uses, there shall be a buffer zone surrounding the development. The extent and treatment of this buffer zone shall be left to the discretion of the Planning Commission to ensure uniformity with adjacent districts.
13. Other Conditions. The Township Board reserves the right to place additional conditions as necessary to meet other provisions of this Ordinance.
14. Upon the recommendation of the Planning Commission, the Township Board may require a performance bond, letter of credit or other mechanism acceptable to the Planning Commission, in an amount sufficient to assure the proper completion of all elements of the PUD.

D. **Application Process** The PUD application process shall include the following steps:

1. An informal pre-application meeting with the Township Clerk, Planning Commission Committee, Zoning Administrator and others at the request of the Zoning Administrator. The applicant will present a basic concept of his development idea and receive feedback from the Township representatives.
2. Request Information Packet for Application and set a date for the Planning commission Site Plan Review.
3. Applicant will bear the full cost if a special Planning Commission meeting is called.
4. Submission of Application, Plans and Fee.
5. Review Procedure.
 - a. Following submission of a complete application package, the project will be accepted for review at a scheduled meeting or special meeting of the Planning Commission. At such meeting, the Applicant will make a formal presentation of the development and ask and answer questions.
 - b. The Planning Commission will review the proposal, make recommendations and suggest possible changes or alterations. These recommendations and requests will be based on the standards in this

Section 12.21 of the Hart Township Zoning Ordinance. Provided, however, no such suggestions or requests by the Planning Commission shall imply approval or any judgment by the Planning Commission prior to the public hearing on the PUD.

- c. If, in the judgment of the Planning Commission, the application is ready for public hearing, the Planning Commission shall set a time and date for a public hearing and provide for notice of such hearing and conduct such hearing in accord with the provisions of **Section 12.03, B**, of this Zoning Ordinance.
- d. Following the public hearing, the Planning Commission shall adopt a resolution recommending to the Township Board the approval the application, the approval the application with conditions or the denial of the application. Such resolution shall be communicated in writing to the Township Board including the grounds for recommending approval, approval with conditions or denial. In formulating its recommendation to the Township Board, the Planning Commission shall consider the following:
 - 1) General requirements for special land uses as stated in this Zoning Ordinance.
 - 2) General objectives of a PUD as stated in this Zoning Ordinance.
 - 3) Specific purposes, qualifying conditions, permitted used and applicable requirements for the district in which the proposed PUD is located.

6. Procedure for Approval/Denial.

- a. Upon receipt of the recommendation of the Planning Commission, the Township Board shall adopt a resolution to approve the application, approve the application with conditions, remand the application to the Planning Commission for further consideration or the deny the application.
- b. An approval shall result in a signed Certificate of Approval.
- c. Denial may be appealed to Circuit Court
- d. Final approval or denial of the site plan shall be made by the Township Board. The Township Board shall prepare a report stating its conclusions on the request for a Planned Unit Development, the basis for its decision to approve or deny the request, the decision and the conditions relating to that approval. A copy of the report and the approved final site plan, shall be filed by the Township Clerk.
- e. The Township Board is specifically authorized to require the recording of

a plat in connection with any such application when such would be required by Act 288 of the Public Acts of 1967, as amended, the Subdivision Control Act. Where the provisions of Act 59 of the Public Act of 1978, the Condominium Act, as amended, shall apply, the applicant shall submit the information and plans as may be required by that Act, including a master deed and restrictive covenants in recordable form, condominium site plans and by-laws, and all other documents required under that Act. The developer shall provide written documentation of compliance with all other procedures or regulations pertaining to the development.

E. Application Contents. Upon completion of the pre-application review, an application may be submitted to the Planning Commission. Such application shall be accompanied by the following:

1. An application fee.
2. A completed site plan meeting the requirements of Article Eleven shall be provided. If the PUD is to be developed in phases, a sketch site plan may be accepted for the entire site and a detailed site plan shall be submitted for each phase as approval is sought.
3. A development schedule indicating:
 - a. Approximate date for commencement of construction.
 - b. Phases, if any, in which the project will be built and the expected starting and completion date of each project.
4. Size and location of each area of common use for recreation or open space purposes which will be completed at each phase and the provisions for the maintenance of those common areas.
5. Proposed agreements, covenants, deed restrictions or other provisions which are proposed to govern the use, maintenance and continued protection of the PUD and any of its common use and open areas.
6. The following additional information may also be required at the discretion of the Planning Commission:
 - a. A description of the proposed operation in sufficient detail to indicate the noise, smoke, odor, vibration, dust, and dirt, noxious gases, glare and heat, fire hazards, industrial wastes and traffic which may be produced by such operation.
 - b. Engineering and architectural plans for controlling problems of the type

enumerated above, if deemed necessary by the developer if required by the Planning Commission for their authorized representative.

- c. Final development architectural sketches or general specifications as to the type of construction materials to be used in the proposed PUD.
- d. A market analysis, stating the economic justification and need for the establishment of the type and size proposed by the applicant.
- e. A traffic survey, prepared by a qualified traffic engineer, indicating the effect of the proposed Planned Unit Development on adjacent streets. Said survey shall disclose the points of origin, direction and amount of traffic flow to and from the proposed PUD as well as adequate means of ingress and egress.
- f. Specifications for all private streets and a description of the provisions for the long-term maintenance of the private streets.
- g. Engineering and architectural plans for:
 - 1) The treatment and disposal of sewage.
 - 2) The disposal of storm waters from roofs, parking lots, and all hard surfaced areas of the development.
 - 3) The proposed handling of traffic congestion, glare, air pollution, fire or safety hazards.

SECTION 12.22 RECEIVING AND TRANSSHIPMENT OF AGRICULTURAL PRODUCTS

A. Definition. Public or private structures, facilities, equipment and grounds used for the gathering, packaging, and shipping of agricultural products including grains, produce, fruit, livestock, dairy products and similar goods, but excluding slaughter facilities and facilities for the processing of agricultural products of any kind. Within the Agricultural-Residential district, existing agricultural operations shall not be considered establishments involved in receiving and transshipment of agricultural products.

B. Regulations and Conditions.

- 1. The minimum lot size shall be three (3) acres and the minimum lot width shall be two hundred (200) feet.
- 2. Such facilities shall be enclosed with a six (6) foot solid fence along the rear and sides of the lot, which the fence shall be capable of containing debris, trash and other blowing objects.
- 3. The lot area used for display, storage and/or parking shall have a

permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.

4. All exterior lighting shall be shielded from adjacent residential areas.
5. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
6. Materials may not be stored within the front, side or rear yard setbacks.
7. Any such facility which involves hazardous materials shall comply with the following requirements, in addition to the foregoing:
 - a. No storage of hazardous materials shall be permitted under the terms of this Ordinance until documentation is provided that all required Federal, State and Local licensing requirements have been fulfilled.
 - b. Any such business involving hazardous materials shall be located on an all-season paved State Highway or an all-season paved County Primary Road.
 - c. No Hazardous Materials or containers for hazardous materials shall be located within one hundred (100) feet from any lot line.
8. All signs shall be in accordance with **Sections 10.09 and 10.10** of this Zoning Ordinance.
9. All parking shall be in accordance with **Article Nine** of this Zoning Ordinance.

SECTION 12.23 RECYCLING DROP-OFF SITES

- A. Definition.** Public or private structures, facilities, equipment and grounds used for the gathering, recycled materials including paper, plastics, yard waste, ferrous and non-ferrous metals, but excluding tires, compost, hazardous or toxic substances of any kind.
- B. Regulations and Conditions.**
 1. If a Recycling Drop-Off Site is combined with another primary use, the minimum lot size shall be one (1) acre and the minimum lot width shall be two hundred (200) feet. A Recycling Drop-Off site proposed as a principal use shall meet the lot area and width requirements of the zoning district.
 2. All recycled material, with the exception of yard waste, shall be deposited in vermin-resistant metal containers. Such containers shall be emptied as needed, but not less frequently than once per week. The site shall receive no

more than fifteen (15) tons per month and shall be operated in a manner that will control litter and pestilence.

3. Such facilities shall be enclosed with a six (6) foot solid fence along the rear and sides of the lot, and along the front of the containment area, which the fence shall be capable of containing debris, trash and other blowing objects.
4. The lot area used for display, storage and/or parking shall have a permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.
5. All exterior lighting shall be shielded from adjacent residential areas.
6. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
7. No recycling container or recycled materials may be placed within the front, side or rear yard setbacks.
8. All signs shall be in accordance with **Sections 10.09 and 10.10** of this Zoning Ordinance.
9. All parking shall be in accordance with **Article Nine** of this Zoning Ordinance.

SECTION 12.24 RESTAURANTS WITH DRIVE THROUGH SERVICE

- A. Definition.** An establishment where food and drink are prepared, served and consumed either within the principal building or elsewhere and providing one or more drive-up windows for consumption on the premises or for take-out.
- B. Regulations and Conditions.**
 1. The proposed site shall meet all requirements for a restaurant without drive through service.
 2. All required state and local licenses and permits shall be received and documented for the Zoning Administrator prior to approval by the Planning Commission.
 3. The applicant shall demonstrate the feasibility of site circulation, parking and cueing patterns such that the proposed facility shall not impact traffic flow on surrounding roadways nor create any detriment to surrounding properties.

4. All exterior lighting shall be shielded from adjacent residential areas.
5. A landscaped buffer not less than ten (10) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
6. All signs shall be in accordance with **Sections 10.09 and 10.10** of this Zoning Ordinance.
7. All parking shall be in accordance with **Article Nine** of this Zoning Ordinance.

SECTION 12.25 WAREHOUSES

A. Definition: A commercial venture that rents indoor or outdoor space for storage purposes. Such facilities include commercial warehouses and self-storage facilities in which patrons typically have joint access to the lot but possess separate access to individual lockable and secure storage units.

B. Regulations and Conditions.

1. The minimum lot size shall be one (1) acre and the minimum lot width shall be two hundred (200) feet.
2. Such facilities shall be enclosed with a six (6) foot solid fence along the rear and sides of the lot, which the fence shall be capable of containing debris, trash and other blowing objects.
3. The lot area used for display, storage and/or parking shall have a permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.
4. All exterior lighting shall be shielded from adjacent residential areas.
5. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
6. Materials may not be stored within the front, side or rear yard setbacks.
7. Any such facility which involves storage of hazardous materials shall comply with the following requirements, in addition to the foregoing:
 - a. No storage of hazardous materials shall be permitted under the terms of this Ordinance until documentation is provided that all required Federal, State and Local licensing requirements have been fulfilled.
 - b. No Hazardous Materials or containers for hazardous materials shall be located within one hundred (100) feet from any lot line.
8. In order to assure continued adequate access to the mini-warehousing

facility, the Planning Commission may require dedication of a permanent easement or right-of-way.

9. Such facilities shall be located on an all-season paved State Highway or an all-season paved County Primary Road.
10. All signs shall be in accordance with **Sections 10.09 and 10.10** of this Zoning Ordinance.
11. All parking shall be in accordance with **Article Nine** of this Zoning Ordinance.

SECTION 12.26 WIRELESS TELECOMMUNICATION FACILITIES AND WIRELESS TELECOMMUNICATION ANTENNAS.

A. Definitions. For the purposes of this Section, the following terms are defined:

1. **Wireless Telecommunication Antenna:** The device through which wireless telecommunication signals, as authorized by the Federal Communications Commission, are transmitted or received. Not included are AM/FM radio antenna, television antenna, satellite dishes, and licensed amateur radio facilities.
2. **Wireless Telecommunication Equipment Shelter:** The structure in which the electronic receiving and transmitting equipment for a wireless telecommunication is housed.
3. **Wireless Telecommunication Facility:** A facility consisting of all structures and equipment involved in transmitting and/or receiving telecommunication signals from mobile communication sources and transmitting those signals to a central switching computer which connects the mobile communication sources and transmitting those signals to a central switching computer which connects the mobile unit to the land-based telephone system. These facilities include but are not limited to private and commercial mobile radio service facilities, personal communication towers (PCS), and cellular telephone towers. Not included in this definition are AM/FM radio towers, television towers, satellite dishes, and federally licensed amateur radio facilities.
4. **Wireless Telecommunication Tower:** A structure intended to support equipment used to transmit and/or receive telecommunication signals including but not limited to monopoles, freestanding lattice structures and guyed lattice structures.

B. Regulations and Conditions. All wireless telecommunication facilities and wireless telecommunication antennae shall be subject to the requirements of this section, as well as any other applicable provisions of this Ordinance. Wireless telecommunication facilities and wireless telecommunication antennae shall be

permitted as follows:

1. **Compliance with Federal Regulations:**
 - a. All telecommunication towers shall comply with current regulations of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) or any other federal or state agency with authority to regulate telecommunication towers and/or antennas.
 - b. In the event of a change in federal or state regulation, the owner of the telecommunication tower and/or antenna shall bring its facility into compliance with the revised regulations within 6 months of the effective date of such regulations, unless a different compliance schedule is mandated by the state or federal agency.
2. **Compliance with Building Codes:** All wireless telecommunication facilities and towers shall be constructed in compliance with all applicable building codes, including the Electronic Industries Association/ Telecommunication Industry (EIA/TIA) standards for the construction of antenna towers and antenna support structures.

3. General Site Location Requirements:

- a. **Parcel or Lot Area Requirements:** A wire- less telecommunication facility may be located on a parcel or a lot with other principal uses provided the lot or parcel meets one of the following criteria:
 - 1) If the property is undeveloped or occupied by a nonresidential use, it must have a minimum area of three (3) acres.
 - 2) If the property is occupied by a residential use, it must have a minimum area of ten (10) acres.

Notwithstanding these requirements, the portion of the lot or parcel leased for the wireless telecommunication facility may be smaller than the minimum lot or parcel area.

b. Setback Requirements:

- 1) Towers shall be set back from the property line a distance equivalent to the radius of the fall zone as documented by an engineer licensed to practice in the State of Michigan. In no event, however, shall a tower be located closer to any on-site or off-site residence than the height of the proposed tower structure. If the tower height exceeds 200 feet, the distance to any residence shall be increased 1 foot for each additional 1 foot of height over 200 feet.

- 2) Other structures associated with the wireless telecommunication facility (such as equipment shelters, guy wire anchors) shall comply with the setback requirements of the district in which the facility is located.
- 3) The setback requirements of this section are minimums. The Planning Commission may require additional setback distance as part of a conditional land use approval or for towers located within 1000 feet of property zoned for residential use.

Co-location Requirements: Wireless telecommunication towers shall be designed to permit co-location by at least two (2) additional wireless telecommunication facilities and shall be adequately sized and configured to allow the placement of at least two additional telecommunication equipment shelters.

Tower Design: Wireless telecommunication towers shall be constructed as freestanding structures (monopole or lattice towers, as approved by the Planning Commission) unless the applicant can demonstrate that such structure cannot accommodate the user or future co-locators. Towers shall have a neutral surface finish color to reduce visual obtrusiveness, except as otherwise required by a state or federal agency.

Signs: Wireless telecommunication towers shall not be used for advertising purposes nor shall such tower display any signs other than one sign, not to exceed two square feet, which identifies the service provider and an emergency telephone number. These restrictions shall not apply to any safety signs placed on the security fence or tower.

Fencing: Wireless telecommunication facilities shall be enclosed by a security fence not less than 6 feet in height. The Planning Commission shall review the need for the installation of anti-climbing devices and make a determination based on adjacent land use and zoning patterns.

Screening: Wireless telecommunication facilities shall be effectively screened to obscure views of the tower base, equipment shelter, security fencing, or guy wire anchors from adjacent uses and public rights-of-way. In locations where the visual impact of the tower will be minimal or where existing vegetation or topography provide an effective natural screening (utility substations), the Planning Commission may modify this requirement.

Lighting: Wireless telecommunication towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative approved by the Planning Commission shall cause the least disturbance possible for nearby properties.

Equipment Shelter Design: The design and materials used in the

construction of the equipment shelter shall, to the extent possible, blend the structure with the surrounding built or natural environment. The equipment shelter shall not exceed 15 feet in height.

Off-street Parking: Wireless telecommunication facilities shall provide 1 off-street parking space to accommodate maintenance vehicles. Driveways and parking spaces serving such facilities may have a gravel surface provided the surface is maintained in a dust-free condition and graded to maintain proper drainage.

5. **Permitted Additional Antenna:** Wireless telecommunication antenna shall be considered a permitted accessory use when placed on or attached to any structure which constitutes a principle use, including existing wireless telecommunication facilities, provided that all other applicable ordinance requirements are complied with.
6. **Permitted Tower Replacement:** Wireless telecommunication tower may be replaced for the purposes of accommodating the co-location of additional wireless telecommunication antenna subject to the following review and approval process:
 - a. An existing tower replacement that results in the addition of 50 or fewer feet of additional tower height shall require site plan review and approval by the Planning Commission.
 - b. Tower replacements that result in the addition of more than 50 feet in height shall require special land use review and approval by the Planning Commission.
 - c. Tower replacements that require the installation of tower lights shall require special land use review and approval by the Planning Commission.
7. **Application Requirements:** In addition to the applicable requirements of Article Eleven, Site Plan Review and Article Twelve, Special Use Approval, the following information shall be provided in support of an application to construct a wireless telecommunication facility:

Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse.

A report, which addresses the review criteria, contained in subsection 8, below. This report shall include a map depicting the existing and known proposed location of wireless telecommunication facilities, including wireless telecommunication antenna attached to alternative tower structures, within Hart Township as well as within the proposed service area radius. Known proposed locations shall include, at minimum, pending telecommunication facility applications in adjacent communities, approved telecommunication facility applications in adjacent communities which have not yet been constructed, and sites which are a part of the applicant's long-term network development plan.

The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. The facility owner shall periodically update this information.

A statement, which indicates the applicant's intent to allow the co-location of other antenna, provided that the cost of modifying the existing tower is borne by the co-locating entity and reasonable compensation is paid by the co-locating entity. In support of this statement, the applicant will send written notice to all potential entities offering an opportunity for co-location. Copies of the notifications shall be sent to the Township Zoning Administrator at the time a land use permit is requested.

The Planning Commission may require a visual impact assessment to determine the visual impact of the wireless telecommunication facility on scenic views.

8. **Review Criteria:** A wireless telecommunication facility shall not be approved unless it can be demonstrated by the applicant that there is a need for the facility which cannot be met by placing wireless telecommunication antenna on an existing tower or similar structure because:

No existing towers or alternative tower structures have the structural capacity to support the proposed antenna nor can existing towers or alternative tower structures be reinforced to support the proposed antenna.

No existing towers or alternative tower structures are located within the geographic area, which meets the systems engineering requirements.

The cost of using an existing tower or other suitable structure or replacing an existing tower exceeds the cost of constructing a new wireless telecommunication facility.

The installation or use of an alternative technology is unsuitable or is not feasible.

9. **Removal of Abandoned Facilities:** Any wireless telecommunication tower or antenna that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such tower or antenna shall remove the same within 90 days of receiving an abandonment notification from the Township. Failure to remove an abandoned tower or antenna within 90 days shall be grounds for the Township to remove the tower or antenna at the owner's expense. The Planning Commission may require the applicant to post a bond or letter of credit in an amount equal to the reasonable cost of removal for the tower and/or antenna. If a bond or letter of credit is to be required, the Planning Commission shall include the requirement as a condition of approval.

SECTION 12.27 (RESERVED)

SECTION 12.28 PUBLIC AND PRIVATE CAMPGROUNDS

- A. Definition. Public and private campgrounds shall include establishments to accommodate individuals, families in unsupervised outdoor living and recreation and/or an organized, supervised recreational program of outdoor activities for boys, girls or families, normally housed in tents, cabins recreational vehicles or similar facilities. Temporary housing for itinerant farm workers located within the Agricultural-Residential district shall not be considered a public or private campground.
- B. Regulations and Conditions.
1. The operating season for a public or private campground shall be determined and established in advance of approval by the Planning Commission of a special land use permit.
 2. All sanitary facilities and drinking water facilities shall meet the requirements of the Oceana County Health Department and any other State or Local regulatory agency.
 3. A facility management plan shall be provided to the Planning Commission as a part of an application for special land use approval. Such facility management plan shall include campground rules, a security plan to keep order, sanitation and housekeeping standards, recreational facilities and programming plan and related information necessary to provide a complete description of the facility and its operation. The compliance with such plans shall be a condition of any special land use approval permit.
 4. All exterior lighting shall be shielded from adjacent residential areas.
 5. A landscaped buffer not less than ten (10) feet in width shall be provided along any side or rear line that abuts lands zoned or used for residential purposes.
 6. All signs shall be in accordance with **Sections 10.08, 10.09 and 10.10** of this Zoning Ordinance.
 7. All parking shall be in accordance with **Article Nine** of this Zoning Ordinance.

SECTION 12.29 PRIVATE ROADS

A new private road and an extension of an existing private road shall be considered as a special land use under the terms of this Article Twelve of the Zoning Ordinance. The provisions of this Section shall not apply to access roads internal to any individual lot or parcel of land which has direct public street frontage access and is under the control of

one person, firm, corporation, or association, provided that the access road does not provide access to any abutting lot or parcel of land. The provisions of this section shall not apply to shared driveways as defined herein and as regulated pursuant to Section 10.13.

A. Definition. A Private Road or Street shall be a roadway contained within a private road easement which is privately owned and maintained and which provides the principal means of access to one or more abutting lots.

B. Regulations and Conditions.

1. Approval Standards. In addition to the general approval standards for Special Land Uses set forth in **Section 12.04** of this Zoning Ordinance, the Planning Commission shall apply the following standards in the review of the application to determine the necessity for the private road. The owners must demonstrate a compelling reason for the development of a private road, pursuant to one or both of the following criteria:

- a. The Oceana County Road Commission has refused to accept jurisdiction for a properly constructed public road substantially equivalent to the private road proposed. The applicant shall provide documented evidence of such refusal. The maximization of development density or the reduction of development costs shall not be deemed compelling reasons for approval of a private road.
- b. The use of a public road constructed to required standards will result in the loss or degradation of important natural features that may be preserved and protected through the use of a private road. The applicant shall provide a detailed inventory of the specific features that would be lost through the construction of a public road and a specific description of how the proposed private road will preserve such features.

2. Construction Standards. Except as provided in paragraph H below, private roads shall be constructed generally in accord with the Standards and Specifications for public roads applied by the Oceana County Road Commission. The following are additional minimum acceptable standards and the Township may require a private road to meet higher standards, if necessary to protect the interests of the citizens of the Township.

a. Easement: The private road shall be located within a sixty-six (66) foot wide easement, properly recorded with the Oceana Register of Deeds.

b. The improved surface of the private road shall be located and constructed a minimum of fifteen (15) feet from any adjoining lot or parcel which does

not derive access from the easement or private road.

- c. A private road shall intersect with a public road and no portion of any private road shall extend more than twenty-six hundred forty (2,640) feet from an intersection with a public road.
 - d. A private road which is to serve more than twenty (20) residential lots or parcels shall be provided with a paved surface. The pavement width, pavement surface, and subbase shall be constructed in conformance with the Standards and Specifications of the Oceana County Road Commission, or similar successor regulations. Provided, that the Planning Commission may recommend a temporary waiver of the pavement requirement set forth in this subparagraph for a proposed private road that would intersect with an unpaved public road. Said temporary waiver shall be removed at such time as the adjoining public road is paved and all maintenance agreements, deed restrictions, master deed provisions, easement agreements and related documents shall provide for such future paving and incorporate a feasible mechanism satisfactory to the Township Attorney to assure completion of the required paving.
 - e. In the event a private road approved under the terms of this ordinance and serving fewer than twenty (20) residential parcels is to be extended to serve twenty (20) or more parcels, the entire length of the existing and extended private road shall be provided with a paved surface, in accord with sub-paragraph C, 4 hereof.
3. Maintenance Agreements: A Maintenance Agreement must bind the owners of all affected lots and parcels whose primary access is provided by the Private Road, including their successors and assigns. A draft copy of the proposed maintenance agreement shall be submitted with the special land use application. The Maintenance Agreement must include the following minimum information.
- a. Co-Owner Association: A provision for an incorporated association of co-owners along the proposed Private Road, which shall be responsible to collect fees and to build and maintain the Private Road or Roads.
 - b. Restrictive Covenant: A restrictive covenant shall be included in the Maintenance Agreement establishing the responsibility for maintaining the Private Road on all lots and parcels to be serviced by the Private Road.
 - c. Financing: A feasible and practical method for financing the repair, improvement, maintenance and extension of the Private Road in compliance with this ordinance.

4. Prohibited. Neither Hart Township nor the Oceana County Road Commission shall be obligated to perform regular inspections of the easement area or provide necessary repairs or maintenance to the Private Road. Hart Township is not responsible for the legality or enforcement of the maintenance agreement.
5. Road Name. The road name shall be approved by the Oceana County Road Commission, and the Hart Township Planning Commission. Lot address numbers shall be assigned based on the private road, not the adjoining public road and parcel addresses shall be required to be clearly posted in a visible location at each lot driveway. A road name sign, approved by the Oceana County Road Commission shall be placed at the intersections of the Private Road and Public or Private Roads.
6. Preexisting Roads: Any extension of a private road established on or before November 1, 2001, shall meet all of the requirements of this ordinance.
7. Waivers. If, in the judgment of the Planning Commission, the implementation of a public or private road in accord with the Standards and Specifications of the Oceana County Road Commission, or similar successor regulations, will result in the loss or degradation of important natural features, the Planning Commission may waive the strict application of such standards for a private road. An applicant for such a waiver shall identify the specific features that would be lost or degraded through the use of said Standards and alternative methodologies considered to mitigate such loss or degradation. The Planning Commission shall consult with the Chief of the Local Fire District and may consult with experts as needed to evaluate such a request and the cost of such consultation shall be borne by the applicant.

ARTICLE THIRTEEN: ADMINISTRATION

SECTION 13.01 ZONING ADMINISTRATOR AND CERTIFICATES OF APPROVAL

The provisions of this ordinance shall be administered by a Zoning Administrator who shall be appointed by the Township Board for such term and subject to such conditions as the Township Board deems desirable to carry out the terms of this Ordinance. The Zoning Administrator shall hold office at the pleasure of the Township Board, and shall receive such compensation as shall be determined by the Township Board. The Zoning Administrator is responsible for approving all Certificates of Approval. The Zoning Administrator may be empowered to issue permits for conforming land uses, act as inspector to determine compliance with this Ordinance, maintain regular office hours, keep a file record of all permits, and prepare summary reports for the Township Board and Planning Commission at reasonable times or when requested. No Certificate of Approval shall be issued until all provisions of this ordinance have been fulfilled. No construction or authorized use shall commence until the Zoning Administrator issues a Certificate of Approval.

- A. It shall be unlawful to change the type of use of land, or to change the type of use, or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use until the Zoning Administrator has issued a Certificate of Approval.
- B. All applications for Certificates of Approval shall be made in writing to the Zoning Administrator on forms provided for that purpose. A record of all such applications shall be kept on file by the Zoning Administrator. Any Certificate of Approval issued under the provisions of this Ordinance shall be valid only for a period of one (1) year following the date of issuance thereof and shall be posted during said time on any existing building or lot and in such a manner as to be visible from the highway for inspection.
- C. When the Zoning Administrator receives an application for a Certificate of Approval which requires action by the Zoning Board of Appeals or Planning Commission, such application, along with all supporting information, shall be conveyed by the Zoning Administrator to the Zoning Board of Appeals or the Planning Commission.
- D. If any application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval and deliver a copy to the applicant.
- E. The Zoning Administrator may prior to or after issuance of a Certificate of

Approval require:

1. Applicant to provide proof of ownership, including an abstract, deed or title insurance commitment or a title history search;
 2. A registered survey, if the proposed structure could violate the Zoning Ordinance, including staking for side lot, high water mark and of the proposed site for the building or addition.
- F. The development or usage proposed shall be subject to an inspection by the Zoning Administrator after trenches are dug and prior to footing construction. The holder of a Certificate of Approval shall be responsible to notify the Zoning Administrator with at least two (2) working-days notice regarding the time that the development/construction will be ready for inspection. Failure of the holder of a Certificate of Approval to make proper notification for inspection shall automatically void the Certificate.
- G. The applicant shall bear the entire responsibility to provide the Zoning Administrator with all necessary supporting documentation required pursuant to the Ordinance including the applicants and owners address and telephone number, the address of the property proposed for development, a legal description of the property to be developed and the parcel's township tax number.
- H. Fees for Certificate of Approval and inspections shall be as established from time-to-time by the Township Board.
- I. All applicable County, State and/or Federal permits must be secured by the applicant before a Certificate of Approval shall be issued.

SECTION 13.02 TOWNSHIP PLANNING COMMISSION.

- A. The Township Board shall maintain a Planning Commission composed of not less than five (5) nor more than seven (7) members under provisions of the Township Planning Act, Act 168 of 1959.
- B. The Township Board, by resolution, has transferred all powers and duties of a Zoning Board to the Planning Commission, as outlined in Act 184 of 1943 as amended, and as permitted in Section 11 of the Township Planning Commission Act, Act 168 of 1959.
- C. A member of the Planning Commission shall serve until a successor is appointed and has qualified. Upon the expiration of the terms of the members first appointed, successors shall be appointed, in like manner, for terms of three (3)

years each. A vacancy shall be filled in the same manner as is provided for the appointment in the first instance for the remainder of the unexpired term. Members of the Planning Commission shall be removable for misfeasance, malfeasance, or non-feasance in office by the Township Board upon written charges and after public hearing.

- D. The Township Planning Commission shall hold a minimum of six (6) regular meetings annually, at which meetings any person having interests in the Township, or their duly appointed representatives, shall be heard relative to any matters that should properly come before the Planning Commission. The Planning Commission shall elect from its members a chairperson, a secretary, and other officers or committees it considers necessary, and may request technical assistance, as it requires. The election of officers shall be held once each year.
- E. Members of the Township Planning Commission may receive such compensation as may be fixed by the Township Board. The total annual amount to be allowed as expenses of all members of such board, including any compensation paid its employees, shall be appropriated annually in advance by the Township Board.
- F. The Township Planning Commission, periodically, shall prepare for the Township Board, a report on the operations of the Zoning Ordinance including recommendations as to the enactment of amendments or supplements to the Ordinance.

SECTION 13.03 ZONING BOARD OF APPEALS

- A. There is hereby created a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided by Act 184 of the Public Acts of 1943, as amended, and by the provisions of this Ordinance. It shall have the power in passing upon appeals to vary or modify any provision of this Ordinance or decision of the Zoning Administrator or other Administrative Agent, so that the spirit of this Ordinance is observed, safety, sanitation and protection is secured, and substantial justice done. It shall have the power to act upon any matter referred to it by this Ordinance.
- B. Any person adversely affected by a decision of the Zoning Board of Appeals may appeal to the Circuit Court of Oceana County, Michigan, said appeal to be made within twenty one (21) days after the rendering of the Zoning Board's decision.
- C. Every appeal filed with the Zoning Board of Appeals shall be accompanied by a fee to be determined by the Township Board, in an amount necessary to cover the costs of publication, mailing and per diem of the members of the Zoning Board of Appeals.

- D. Conflict of Interest A member shall disqualify himself or herself from a vote in which the member has a conflict of interest.
- E. Removal from Office Members of the Zoning Board of Appeals may be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

SECTION 13.04 ZONING BOARD OF APPEALS ADMINISTRATION:

- A. Rules of Procedure The Zoning Board of Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties.
- B. Meetings and Quorum Meetings shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals rules of procedure shall specify. A majority of the total membership of the Zoning Board of Appeals shall comprise a quorum. The concurring vote of a majority of the Zoning Board of Appeals shall be required to take any action. The Zoning Board of Appeals shall not conduct any business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act, Public Act 267 of 1976.
- C. Records The Zoning Board of Appeals shall maintain a record of its proceedings that shall be filed in the office of the Township Clerk and shall be a public record. The record shall contain the grounds for every determination made by the Zoning Board of Appeals, including all evidence and data considered, all findings of fact and conclusion drawn for each case, and the final rule on each case.
- D. Witnesses The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.

SECTION 13.05 ZONING BOARD OF APPEALS, JURISDICTION AND AUTHORIZED APPEALS:

Except as otherwise provided, the Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or Planning Commission, or other official administering or enforcing the provisions of this Ordinance as provided herein. Within this capacity, the Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination. The Zoning Board of Appeals, however, shall not have authority to hear appeals related to any decision or conditions attached to any

decision pertaining to a special land use or planned unit development.

A. **Administrative Review** The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision made by the Zoning Administrator or Planning Commission in the administration or enforcement of this Ordinance. No decision or condition related to a Special Land Use Application shall be taken to the Zoning Board of Appeals. An appeal of a Special Land Use decision or condition may be taken to the Circuit Court.

B. **Ordinance Interpretation** The Zoning Board of Appeals shall hear and decide upon the following requests:

1. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of this Ordinance, the Article in which the language is contained, and all relevant provisions of this Ordinance.
2. Determine the precise location of the boundary line between zoning districts when there is dissatisfaction with the decision made by the Zoning Administrator.

C. **Dimensional Variances** The Zoning Board of Appeals shall have the power to authorize dimensional variances from site development requirements such as lot area and lot width, building height and bulk regulations, yard width and depth requirements, off-street parking and loading requirements, sign landscape requirements, and other similar requirements of this Ordinance.

1. Approval Criteria. To obtain a dimensional variance, the applicant must demonstrate that a practical difficulty exists by showing:
 - a. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.
 - b. That the need for the variance is not the result of actions of the property owner (self-created) or previous property owners.
 - c. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. The fact

that a property owner may incur additional costs in complying with this Ordinance shall not, in and of itself, be construed to make compliance unnecessarily burdensome.

- d. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether the requested variance would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
 - e. That the variance will not cause adverse impacts on surrounding property, or the use and enjoyment of property in the neighborhood.
 - f. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or by special land use approval.
2. **Conditions.** The Zoning Board of Appeals may impose conditions upon a dimensional variance approval. The conditions may include those necessary to protect the natural environment and conserve natural resources, to ensure compatibility with adjacent land uses, and to promote the use of land in a socially and economically desirable manner. Conditions imposed upon a dimensional variance approval shall be stated in the record or order and shall remain unchanged except upon application to the Zoning Board of Appeals and the property owner. Similarly, any changes in conditions shall be reflected in the record of order.
3. **Effect of Approval:** The dimensional variance shall expire at the end of 12 months, unless a Certificate of Approval authorizing the construction has been obtained and construction has started and proceeds to completion in accordance with the terms of the Certificate of Approval.

D. Use Variances The Zoning Board of Appeals shall have the power to grant use variances to the zoning district use restrictions to the extent provided by the Township Zoning Act and applicable Michigan case law. A petition for a use variance may be reviewed by the Township Attorney to determine whether, in the opinion of the Township Attorney, statute or case law allows the petition.

1. **Approval Criteria.** To obtain a use variance, the applicant must demonstrate that an unnecessary hardship exists by showing:
 - a. That the property as a whole cannot be reasonably used for any of the uses permitted by right or special land use approval in the zoning district in which the property is located, and;
 - b. That the variance is needed due to unique circumstances peculiar to the property and not general to neighborhood conditions, and;
 - c. That the need for the variance is not the result of actions of the property

owner (self-created) or previous property owners.

2. Conditions. The Zoning Board of Appeals may impose conditions upon a use variance approval. The conditions may include those necessary to protect the natural environment and conserve natural resources, to ensure compatibility with adjacent land uses, and to promote the use of land in a socially and economically desirable manner. Conditions imposed upon a use variance approval shall be stated in the record of order and shall remain unchanged except upon application to the Zoning Board of Appeals and at the mutual agreement of the Zoning Board of Appeals and the property owner. Similarly, any changes in conditions shall be reflected in the record of order.
3. Effect of Approval. The use variance shall expire at the end of 12 months, unless a Certificate of Approval authorizing the construction has been obtained and construction has started and proceeds to completion in accordance with the terms of the Certificate of Approval.

SECTION 13.06 ZONING BOARD OF APPEALS, PROHIBITED APPEALS:

The Zoning Board of Appeals shall not alter or change the zoning district classification of any property or take any actions that have the effect of a legislative action. The Zoning Board of Appeals shall not have authority to hear appeals related to any decision or conditions attached to any decision pertaining to a conditional land use or planned unit development.

SECTION 13.07 ZONING BOARD OF APPEALS, APPEAL PROCEDURE:

- A. Notice of Appeal The following procedures shall be observed in filing of a notice of appeal:
 1. Ordinance interpretation and variance requests may be made by any aggrieved persons or by any official of the Township on a form provided for that purpose.
 2. The appeal of a ruling of the Planning Commission or Zoning Administrator in the enforcement of this Ordinance shall be taken within 21 days of the date of the Zoning Administrator's decision on a form provided for that purpose.
 3. Upon receipt of a notice of appeal, the official from whom the appeal is taken shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the appealed action was taken.
- B. Hearing Upon receipt of a request for ordinance interpretation, variance or notice of appeal, the chairperson of the Zoning Board of Appeals shall schedule a

reasonable time and date for a public hearing.

C. Notice of Hearing The appellant, adjacent property owners and the general public shall be notified of Zoning Board of Appeals hearings according the following procedures:

1. The public shall be notified of all public hearings by the publication of at least one notice of the hearing in a newspaper of general circulation in the Township. Written notice shall also be provided to the appellant by personal delivery or mail.

2. In the case of a dimensional or use variance request, notice of the hearing shall be sent by mail or personal delivery to all owners to which real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Notifications need only be given to one occupant of a structure, except if the structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

3. The notice shall be given not less than 5 and not more than 15 days before the application will be considered. The notice shall include a description of the type of appeal requested, a description of the property which is the subject of the appeal, the time and place of the hearing, and the time and location for written comments to be received.

D. Stay An appeal shall stay all proceedings in furtherance of the appealed action unless the Zoning Administrator or Planning Commission certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed unless restrained by order of the Zoning Board of Appeals or the Circuit Court on due cause shown.

SECTION 13.08 ZONING BOARD OF APPEALS, FINAL DECISIONS AND REHEARING:

A Final Decisions Except as provided in this section, a decision of the Zoning Board of Appeals shall be final. The Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:

1. The applicant who brought the matter before the Zoning Board of Appeals made misrepresentations concerning a material issue which was relied upon by the Zoning Board of Appeals in making its decision.
 2. There has been a material change in circumstances regarding the Zoning Board of Appeals findings of fact that occurred after the hearing.
 3. The Township Attorney, by written opinion, states that in the attorney's professional opinion the Zoning Board of Appeals decision made or procedure used was clearly erroneous.
- B. Rehearing Procedure A rehearing may be requested by an applicant or by the Zoning Administrator or the Zoning Board of Appeals may order a rehearing on its own motion according to the following procedures:
1. A request for rehearing which is made by the applicant or the Zoning Administrator must be made within 21 days from the date of approval of the Zoning Board of Appeals minutes regarding the decision for which the rehearing is being requested.
 2. A request for rehearing which is made by the Zoning Board of Appeals on its own motion or upon request of the Zoning Administrator pursuant to Section 13.8, A, 1, may be granted at any time as long as the applicant has not been prejudiced by any delay. Whenever the Zoning Board of Appeals considers granting a rehearing on its own motion or upon the request of the Zoning Administrator, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served at least 9 days before the time set for the hearing if served by mail, or at least 7 days before the time set for the hearing if served by personal service. If the Zoning Board of Appeals grants the rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being heard shall have been satisfied.
- C. Appeals from final decisions of the Zoning Board of Appeals shall be to Circuit Court of Oceana within twenty-one (21) days after such final decision.

ARTICLE FOURTEEN: AMENDMENTS

SECTION 14.01 AMENDMENTS Amendments or supplements to this Ordinance may be made from time to time, in the same manner as provided by Act 184 of the Public Acts of 1943 as amended for the enactment of the original Ordinance. It shall be necessary to publish only the section or sections to be amended in or added to the Ordinance.

Whenever an application for a change of Zoning classification is filed with the Planning Commission, it shall be accompanied by a fee to be determined by the Township Board, in an amount necessary to cover the costs of publication, mailing and per diem of the members of the Planning Commission, provided that if the applicant requests that the application be considered at a regularly scheduled meeting, the deposit of per diem for members of the Planning Commission shall not be required.

ARTICLE FIFTEEN: VIOLATIONS AND PENALTIES

SECTION 15.01 VIOLATIONS

No building, structure or land shall be used or occupied and no building or structure or any part shall be erected, reconstructed, moved or structurally altered so as to be in violation of this Ordinance. No license, permit, variance, or action may be taken which violates this Ordinance. The Township shall not waive any of its right or remedies against any person violating this Ordinance which violations were performed in reliance on authorization erroneously given in violation of any provision. Any permit, license, variance, or action authorized that is contrary to this Ordinance is deemed illegal and invalid from date of the grant of authorization.

SECTION 15.02 CIVIL INFRACTION VIOLATION

Unless specified otherwise in this ordinance, a violation of this ordinance shall be a municipal civil infraction which is an act or omission that is prohibited, made or declared to be unlawful, or an offense by this ordinance, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs may be ordered as authorized by Act 326 of Public Acts of 1961 as amended, subject to the following provisions:

- A. Sanctions for a violation of a civil infraction shall be a civil fine in the amount of not less than \$50.00, plus other cost, damages, expenses, and other sanctions for each infraction.
- B. Increased civil fines may be imposed for repeat violations of this ordinance. As used in this section, "repeat offenses" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision, (i) committed by the same person or others associated or in concert with that person; and, (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
 - 1. The fine for any offense which is a first repeat offense shall be no less than \$250.00
 - 2. The fine for any offense, which is a second repeat offense, shall be no less than \$500.00, plus costs per offense.
- C. A municipal civil infraction action may be commenced upon the issuance of a municipal civil infraction citation directing the alleged violator to appear in court

or municipal civil infraction notice directing the alleged violator to appear at the Township Violation Bureau.

- D. Failure to answer a citation or notice to appear in court for a municipal civil infraction is a misdemeanor violation punishable by a fine of not more than \$500.00, plus other costs, or by imprisonment for a term of not to exceed 90 days, or both fine and imprisonment.
- E. Failure to comply with an order, judgment, or default in payment of a civil fine, costs, damage, or expenses so ordered may result in enforcement actions, including but not limited to imprisonment, collections, placement of lines, or other remedies as permitted in Chapter 87 of Act 326 of Public Acts of 1961 as amended.
- F. A municipal civil infraction is not a lesser included offense of criminal offense or an ordinance violation that is not a civil infraction.
- G. In addition to the other sanctions provided herein or elsewhere in this Ordinance, persons determined to be in violation of this Ordinance shall be required to pay and reimburse the Township for its actual costs of prosecution or litigation, including court costs and actual reasonable attorney fees.

SECTION 15.03 MISDEMEANOR VIOLATIONS

It shall be a misdemeanor, punishable upon conviction by a fine of not to exceed \$500.00 (plus other costs), imprisonment for a term not to exceed 90 days, or both fine and imprisonment: for any person who:

- A. Makes a knowing false statement, representation, or certification in an application, report, record, plan, or other document filed or required to be maintained pursuant to this ordinance; or
- B. Willfully continues or violates this Ordinance after suspension or revocation of a permit authorized under this Ordinance or other ordinances or state law.

SECTION 15.04 NUISANCE PER SE

A violation of any regulation contained in this Ordinance, is determined to be detrimental to the health, safety and general welfare of the residents, property owners, and other persons within Hart Township, and is deemed a public nuisance per se. Any violation of this Ordinance shall constitute a basis for injunctive relief against the violator to restrain and prohibit the violator from continuing the violation, in addition to any other relief or penalty provided by this Ordinance or allowed by law.

SECTION 15.05 INJUNCTIVE RELIEF

In addition to all other remedies, the Township may institute appropriate action or proceedings to prevent, restrain, correct or abate violations or threatened violations and it is the duty of the Township Attorney to institute such action.

SECTION 15.06 CONTINUING OFFENSES

Each day, on which a violation of the ordinance continues, constitutes a separate or repeat offense and shall be subject to penalties or sanctions as a separate or repeat offense.

ARTICLE SIXTEEN: SEPARABILITY

SECTION 16.01 SEPARABILITY.

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

ARTICLE SEVENTEEN: EFFECTIVE DATE

SECTION 17.01 EFFECTIVE DATE.

This amended Ordinance shall take effect eight days after its publication in a newspaper of general circulation in the Township.

DATED: _____

Geoff Hansen, Supervisor

I, Tim Tariske, Clerk of the Township of Hart, hereby certify that the foregoing Ordinance was introduced and adopted at a session of the Hart Township Board, Conveyed in the Township of Hart on _____, a majority of members present, voting in the affirmative therefore.

Tim Tariske, Clerk

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ARTICLE 14 - Amendments
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Article 13 – Administration
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Article 15 – Violations and Penalties

30'

10'

Clear Vision Area

Figure 1. Clear Vision Area