

**NEWFIELD TOWNSHIP**

**ZONING ORDINANCE 2019 - 1**

**EFFECTIVE DATE: November 15, 2019**  
**(Revised September 21, 2021)**

**THE TOWNSHIP OF NEWFIELD  
OCEANA COUNTY**

(231-854-4702)

3890 198<sup>TH</sup>. AVENUE  
HESPERIA, MICHIGAN 49421

ELECTED OFFICIALS

SUPERVISOR – Joan David

TREASURER – Tami Ballantyne

CLERK – Nancy Conley

TRUSTEE – Richard Roberson

TRUSTEE – John Clark

APPOINTED OFFICIALS

ZONING ADMINISTRATOR - Steven Micklin

Planning Commission MEMBERS

Chairperson – Jay Peasley

Secretary – Tami Ballantyne (Board member)

Jan Wilson

Mike Rosema

Jay Peasley

Jennifer Sherburn

## MASTER PLAN

### ESTABLISHMENT OF ZONING DISTRICTS

**GENERAL:** For the purpose of the Zoning Ordinance, the unincorporated areas of the Township are hereby divided into zoning districts, as shown on the zoning Map, which together with all explanatory matter thereon, is here by incorporated, referenced and declared to be a part of this Zoning Ordinance. Said districts shall be known as:

- R-1 Residential, Lakes, & Streams
- AR - 1 Agricultural & Recreational
- C - 1 Commercial
- C - 2 Adult Entertainment
- C - 3 Cluster Housing

**ZONING DISTRICT MAP:** The boundaries of zoning districts enumerated are hereby established as shown on the Newfield Township Zoning District Map, as amended, which accompanies this text, and which map, with all notations, references and other information of this Zoning Ordinance shown thereon, shall be as much a part as if fully described herein. One (1) certified copy of the Zoning District Map, as amended, is to be maintained and kept up-to-date by the Township Clerk, accessible to the public and shall be the final authority as to the current zoning status of properties in the Township. A certified copy of the Zoning District Map together with any amendments thereto, shall be filed with the Oceana County Planning Commission.

**BOUNDARIES OF DISTRICTS:** Where uncertainty exists as to the boundaries of districts, as shown on the Newfield Township Zoning Map, as amended, the following rules shall apply:

A. Boundaries indicated, as approximately following the centerlines of right of way of streets, highways, and alleys, shall be construed to follow such centerlines.

B. Boundaries indicated approximately following Platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated approximately following Township limits shall be construed as following the Township limits.

D. Boundaries indicated as following rivers and streams should be construed to follow the approximate centerline of such river or stream, and in the event of change in such river or stream, should be construed as moving with the actual centerline.

E. Boundaries indicated as parallel to, or extensions of, features indicated in subdivisions A through D above, shall be so construed. The scale of the map, as amended, shall determine distances not specifically indicated on the Newfield Township Zoning District Map.

F. Where the street or property layout existing on the ground is at variance with that shown on the Zoning District Map, or where due to scale, lack of details there is uncertainty, contradiction, or conflict as to the intended location of any Zoning District boundaries shown thereon, interpretation concerning the exact location of District boundary lines shall be determined, upon written application to the Zoning Board of Appeals, pursuant to Article 13.

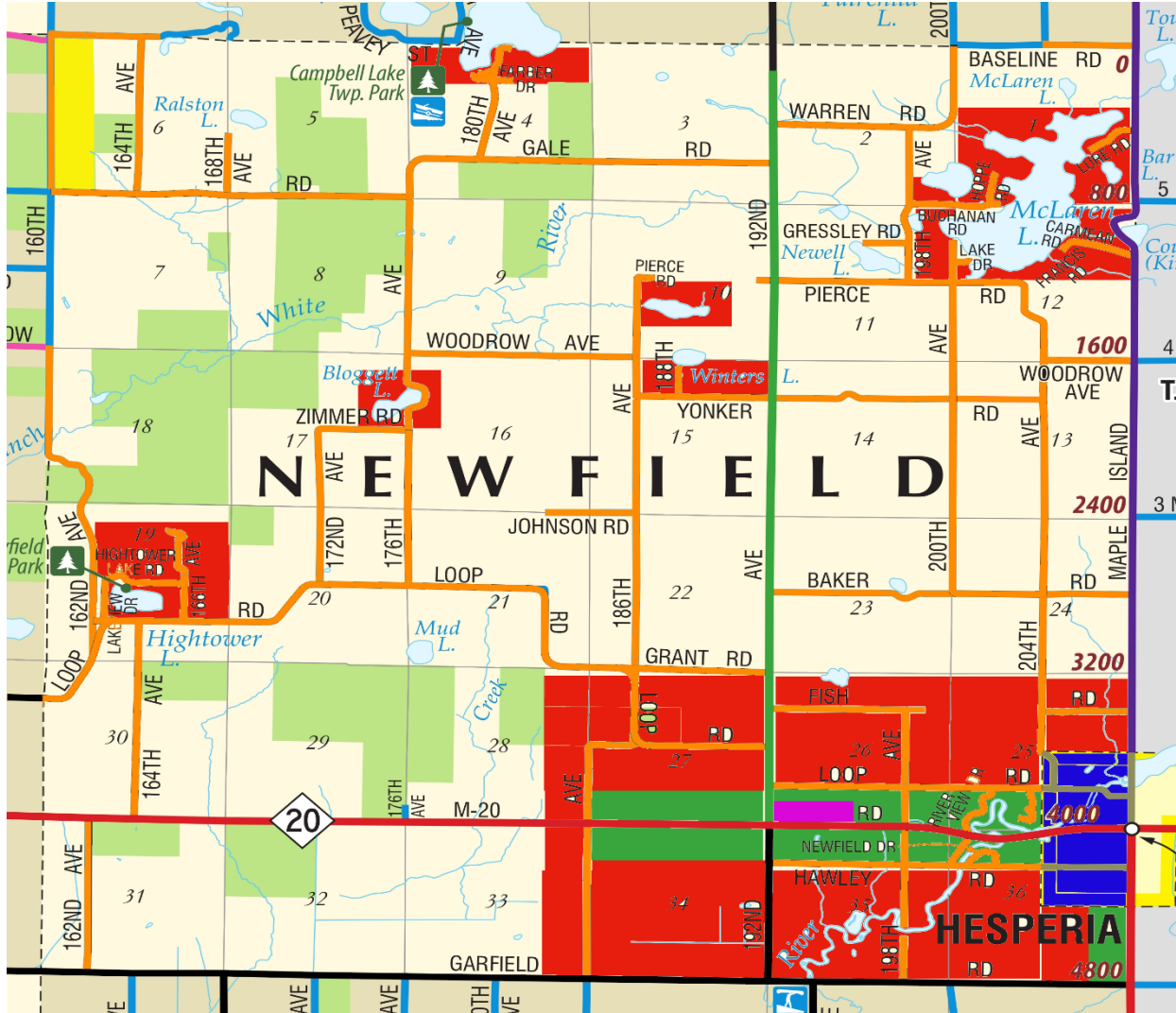
Change of Zoning District Map: Any unauthorized change of the Zoning District Map of whatever kind by person or persons shall be considered a violation of this Zoning Ordinance and punishable under Article 22 of this Zoning Ordinance.

Streets: & Alleys: Whenever any street, alley or other public way is vacated, the zoning districts adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

# ACTUAL ZONING MAP

NEWFIELD

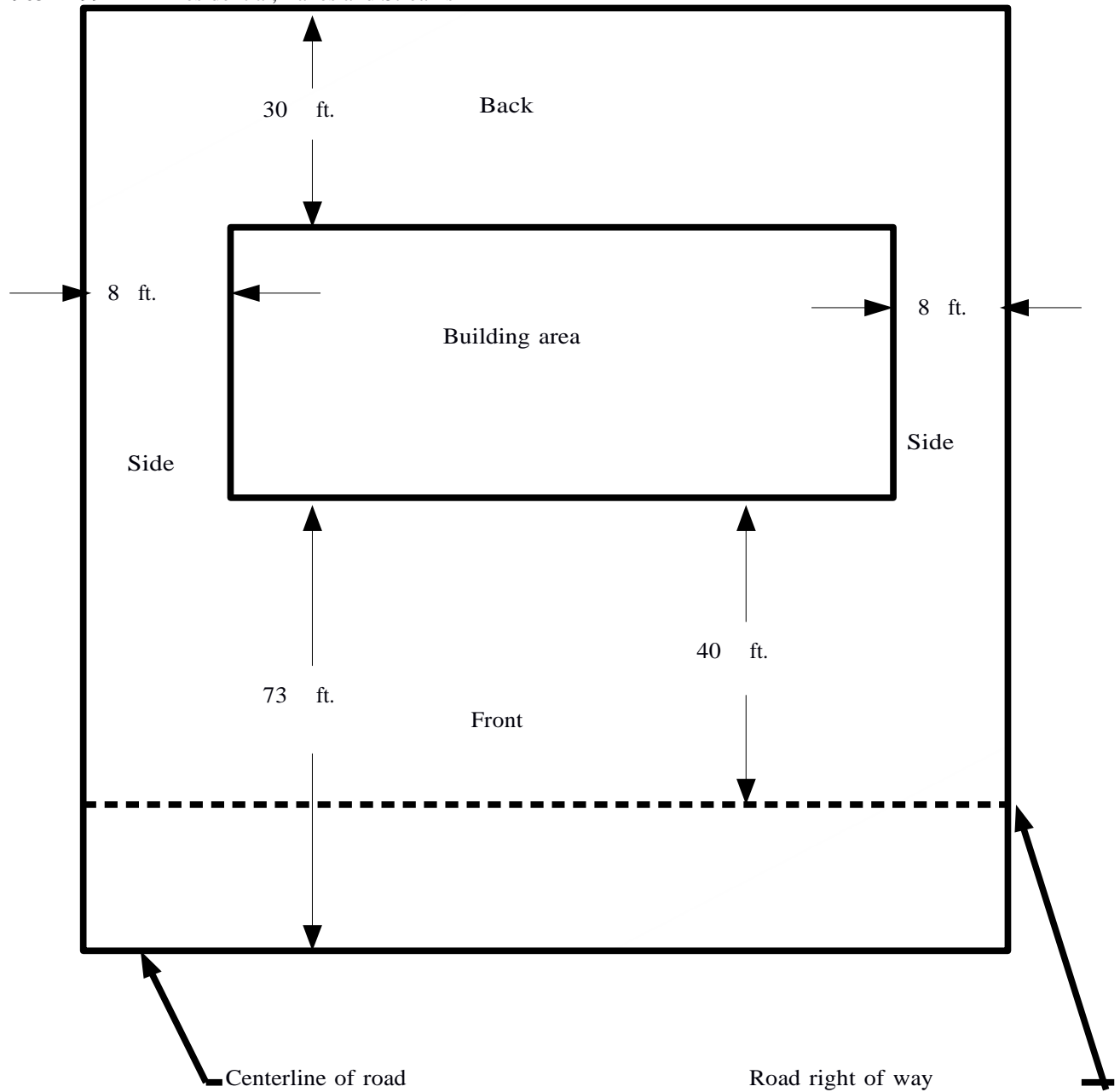
T.14 N. - R. 15 W5



- R - 1 Residential , Lakes & Streams (Red)
- AR - 1 Agricultural Recreational (White)
- C - 1 Commercial (Green)
- C - 2 Adult Entertainment (Yellow)
- C - 3 Cluster Housing (Purple)
- Village (Blue)

TOWNSHIP ZONING ORDINANCE NUMBER 2019-1

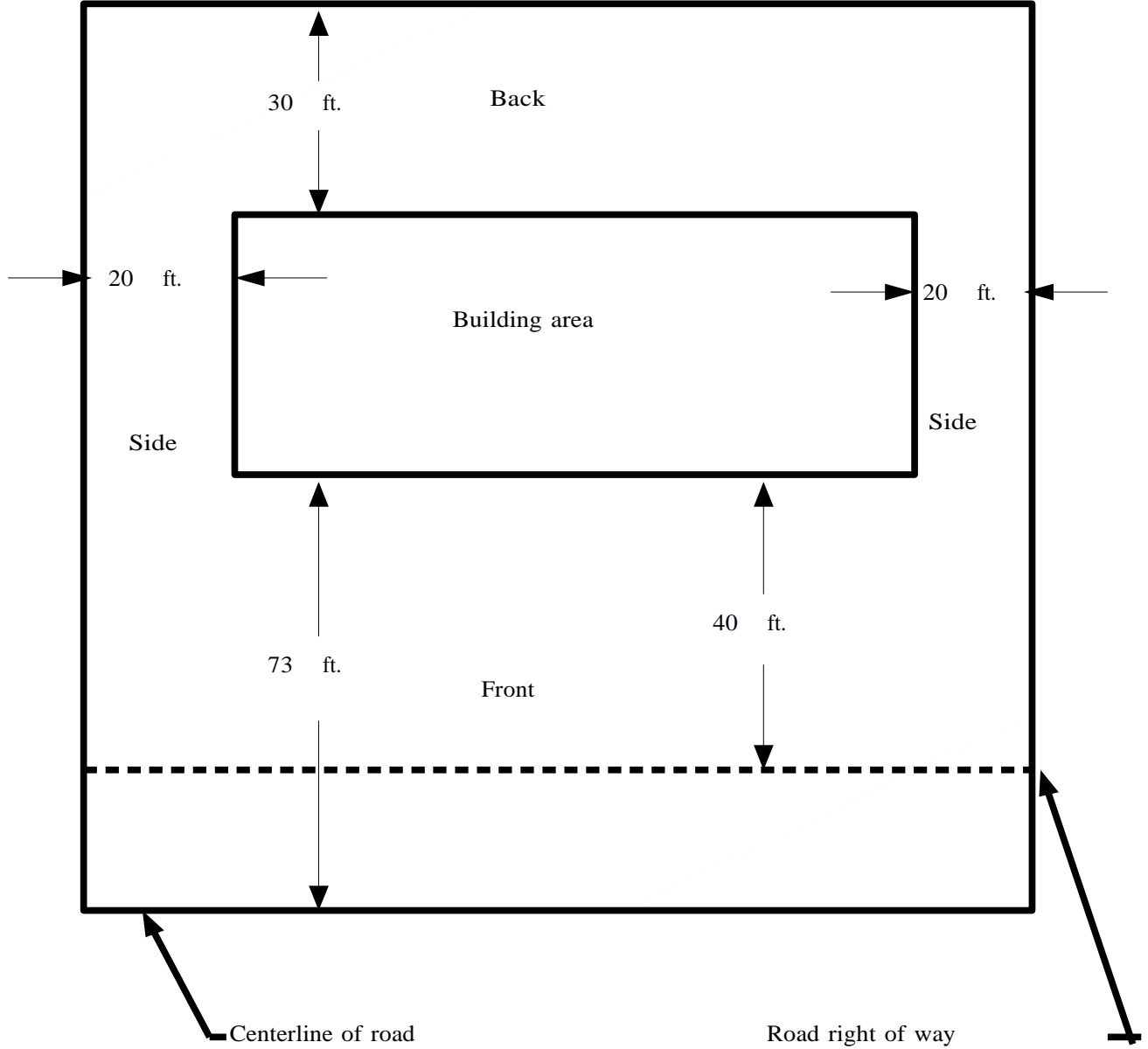
1965 – 1994 R1 – Residential, Lakes and Streams



1965 - 1994  
 R - 1 RESIDENTIAL, LAKES, & STREAMS  
 20,000 SQ. FEET 100 X 200  
 40' FRONT SET BACK -  $40' + 33' = 73'$   
 30' BACK SET BACK                      8' SIDE SET BACK

TOWNSHIP ZONING ORDINANCE NUMBER 2019-1

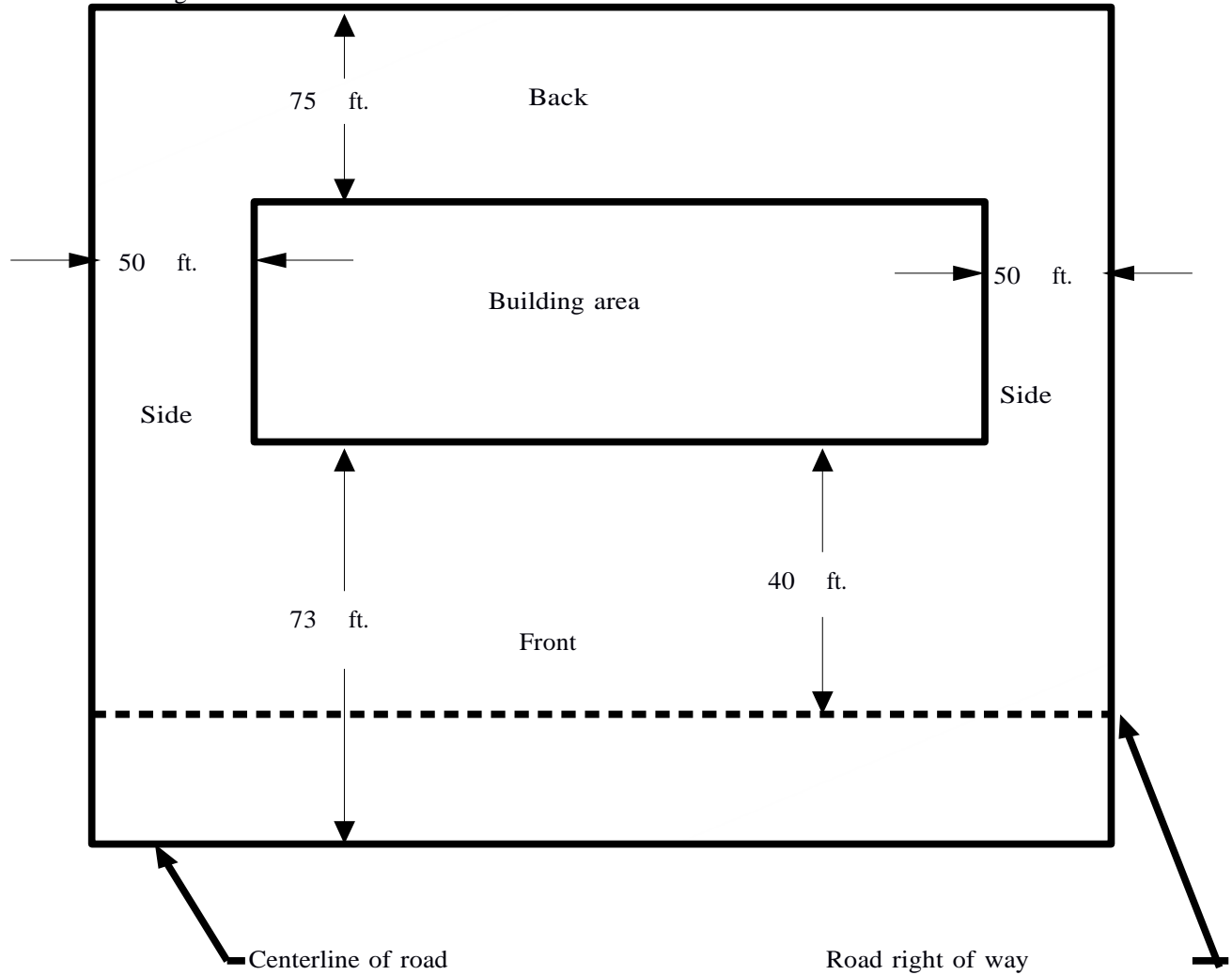
Current R1 – Residential, Lakes and Streams



R - 1 RESIDENTIAL, LAKES, & STREAMS  
25,000 SQ. FEET 150 X 167  
40' FRONT SET BACK - 40' + 33' = 73'  
30' BACK SET BACK  
20' SIDE SET BACK  
25.000 SQ. FEET

TOWNSHIP ZONING ORDINANCE NUMBER 2019-1

Current AR1 – Agricultural and Recreational



AR- 1 AGRICULTURAL - RECREATIONAL DISTRICT  
2 ACRES - 87,120 SQUARE FEET 180' X 484' LONG  
40' FRONT SET BACK - 40' + 33' = 73'  
75' BACK SET BACK  
50' SIDE SET BACK  
80' WIDE X 231' LONG BUILDING AREA



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**ZONING ORDINANCE**  
**NEWFIELD TOWNSHIP**  
**OCEANA COUNTY, MICHIGAN**

BE IT ORDAINED BY THE TOWNSHIP OF NEWFIELD, IN THE COUNTY OF OCEANA, IN THE STATE OF MICHIGAN, AS FOLLOWS:

**ARTICLE ONE (1)**

**TITLE AND PURPOSE**

1.01 Title: This Ordinance shall be known as Township Zoning Ordinance Number 2019 - 1.

1.02 Purpose: A Zoning Ordinance established comprehensive zoning regulations for the portion of Newfield Township, outside the incorporated limits of cities and villages, in accordance with the provisions of Michigan Act 110 of 2006, as amended, and all acts amendatory thereof, to promote the public health, safety, and general welfare by dividing the Township into zones and regulating therein the uses of land and structures.

1.03 New Construction: All new construction requires a zoning permit

1.04 Demolition: All demolition requires a zoning permit if structure is over two hundred (200) square feet.

**ARTICLE TWO (2)**

**DEFINITIONS**

2.01 General: As used in this Zoning Ordinance, the words, terms, and phrases defined in this Article shall have the meaning given herein, unless otherwise specifically defined, or unless the context clearly requires otherwise, the present tense includes the future tense, the singular number shall include the plural and the plural shall include the singular; the word “shall” is mandatory, and the word “may” is permissive; the word “used” or “occupied” includes the words “intended , designed or arranged ” to be “used” or “occupied”, the word “lot” includes the words “plot” or “parcel”, for regulatory purposes the word “structure” shall include the term “use” of land and building, and vice versa.

2.02 Accessory Structure: A structure subordinate to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the principal structure or use of land.

2.03 Accessory Use: A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

2.04 Basement: That portion of any structure located partly below the average grade contiguous to the subject structure.

2.05 Boathouse: A structure used for the storage of watercraft and related equipment.

2.06 Building: Any structure for the shelter, support or enclosure of persons, animals, chattels, or property of any kind, and when separated by dividing walls without openings, each portion of building so separated, shall be deemed a separate building.

2.07 Building, Height of: The elevation, measured on the average finished lot grade at the front of the building, to the highest point of the roof.

2.08 Building Line: A line measured across the width of a lot at a point where a structure is placed in accordance with the minimum setback requirements of this Zoning Ordinance.

2.09 Cluster Housing: Land designated by the township for housing as governed by state code.



2.10 Comprehensive Plan: The policies, statements, goals and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for future development of the Township.

2.11 Duplex: A two - family dwelling, which is structurally unified as a single building. Which is used as a dwelling exclusively by two (2) families, each living as independent housekeeping unit.

2.12 Dwelling - Single Family: Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons.

2.13 Dwelling - Two Family: A residence for, or occupied by, two families with separate housekeeping and cooking facilities for each family.

2.14 Essential Services: Services provided by public and private utilities, necessary for the exercise of the principal use of service of the principal structure. These services included underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, main drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduit cables, traffic signals, pumps, lift station and hydrants, but not including building,

2.15 Family: Any person or group of persons, related by blood or marriage.

2.16 Farm- Commercial: Agriculture of a primarily commercial nature, including, but not limited to, fur farms, poultry and egg farms, raising of livestock for profit, hog farms, feed lots and any other agricultural endeavor for profit.

2.17 Farm - Hobby: The pursuit of hobby and family-type agricultural activities; including minimum cropland tillage and animal agriculture for personal and family use, including boarding facilities for horses.

2.18 Home Occupation: An accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services subject to the provisions of Article Three (3) Section 3.06.

2.19 Junkyard: The term junkyard shall mean any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled vehicles or vehicle parts.

2.20 Kenel: Any structure or premises or commercial activity on which two (2)

or more dogs over three (3) months of age are kept or raised for compensation.

2.21 Lot: Any parcel, plot or premises of land subject to the provisions of this Zoning Ordinance , and capable of being described with such definiteness that its location and boundaries may be established.

2.22 Lot Areas: 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 in use or to be used as the street including the right-of-way.

2.23 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 case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described below.

2.24 Lot Frontage: The front of a lot shall be construed to be the portion of the lot nearest the street, road, or water edge. In the case of a corner lot, either street may be considered the front.

2.25 Lot Width: Shall be the distance between the side lot lines, measured at the building line.

2.26 Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the Office of the Register of Deeds

2.27 Modular Housing Unit: A dwelling constructed solely within a factory, as a single unit or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

2.28 Mobile Home: Mobile home means a structure, transportable in one (1) or more sections, which is built on permanent chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

A. When two or more structures which may qualify individually as a mobile home, have their undersides removed and are secured to a permanent block foundation, are permanently fastened together, and have a pitched roof (as set by the Building Code in effect) with a load rating of 40 PSI, said structure shall be deemed to have lost their designation as a mobile home, and shall be treated for all purposes as a permanent single-family dwelling.

B. For purposes of the Zoning Ordinance, those structures which are called variously “double-wide”, “modular” or “pre-fabricated”, and are reconstructed in other location and transported to the housing site, but are built to the standards of a national building code, other than the National Mobile Home Construction and Safety Standards Act shall not be considered as mobile homes.

2.29 Mobile Home Park: Any site, lot, field, or tract of land upon which two or more mobile homes are harbored, either free of charge or for revenue purposes, and shall include building, structure, or enclosure used or intended for use as part of the equipment of such mobile home park.

2.30 Nonconformity: Any legal use of a structure or parcel of land already in existence, recorded, or authorized before the adoption of this Zoning Ordinance or amendments thereto, that would not have been permitted to become established under the terms of the Zoning Ordinance now written, if the Zoning Ordinance had been in effect prior to the date that it was established, recorded, or authorized.

2.31 Parking Space, off-Street: Any off-street parking space shall comprise not less than one hundred eighty (180) square feet of parking area, plus necessary space for maneuvering incidental to entering or exiting the parking space and shall not encroach upon any public right-of - way. Every off-street parking space shall be accessible to a public roadway.

2.32 Person: A firm, association, organization, partnership, trust, company, or corporation as well as an individual.

2.33 Private Lakes and Ponds: Bodies of water with no public access.

2.34 Setback, Street: The minimum distance between the front lot line and structure, including porches, and excluding steps. The setback shall commence from the road right-of-way, if described, and if not described, shall be presumed to

be thirty-three (33) feet from the centerline of the road.

2.35 Sign: A name, identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building structure or piece of land and which directs attention to an object, product, place, activity, institution, organization, idea or business.

2.36 Story: When any portion of the basement or unused under floor is more than six ( 6 ) feet above grade for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade at any point, such basement, cellar or unused under floor space shall be considered as a story.

2.37 Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground. This may also include the terms building or, where construed, premises.

2.38. Underground Dwelling: A dwelling that is partially or wholly surrounded by earth on no more than three (3) sides and the roof and which is to be used as an occupied dwelling according to the district regulations.

2.39 Use: The specific purpose, for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term “permitted use “ or its equivalent shall not be deemed to include any nonconforming uses.

2.40 Variance: Any modification or variation of the provisions of the Zoning Ordinance where it is determined pursuant to the provisions of this Zoning Ordinance that, by reason of exceptional circumstances, the strict enforcement of the Zoning Ordinance would cause unnecessary hardship.

2.41 Yard: A required open space occupied and unobstructed by a structure or portion of a structure, from thirty (30) inches above the ground level of the grade lot upward, provided, however, that fences, utility poles, lawn lights, antennae, and related minor equipment may be permitted in any yard, provided that they do not create a traffic safety hazard.

2.42 Yard, Front: A yard extending across the front of a lot between the side yard lines and lying between the centerline of the street, highway, or water’s edge and the building line.

2.43 Yard, Rear: A yard extending across the rear of the lot between inner side

yard lines. In case of through lots, there will be not rear yard. In the case of corner lots, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the real line of the half-depth front yard.

2.44 Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line on each side of a residential or commercial building.

2.45 Zones or Zoning District Boundaries: Where uncertainty exists as to the boundaries of any of the districts or zones shown on the Zoning Map, the following rules shall apply:

A. Zone boundary lines are intended to be parallel or perpendicular to the street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on said Zoning Map.

B. Where zone boundaries are so indicated that they approximately follow street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.

C. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than twenty-five (25) feet distant there from such lot lines shall be such boundaries.

D. If un-subdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the Zoning Ordinance, shall be determined by the use of the Map shown thereon and scaled to the nearest foot.

**ARTICLE THREE (3)**

**GENERAL PROVISIONS**

3.01 Zoning Affects Every Structure and Use: Except as herein specified, no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, razed, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with all provisions herewith.

3.02 Contrary to Public Improvement Projects: Where the Zoning Administrator of the Township certifies that structures on un-platted areas are or may be in conflict with Village, County, or State improvement projects such as water, sewer, roads, etc. no building permits shall be issued until such conflicts have been resolved.

3.03 Re-division of Substandard Lots: Where two (2) or more adjacent lots are under single ownership at the time this chapter becomes applicable thereto, and each of such lots contains less than ninety (90) percent of the zone district width and area requirements, such lots shall be re-divided and utilized in conformance with this chapter; provided, however, that in any residential zone, a single-family dwelling may be constructed on any substandard lot of record in single ownership, regardless of its area or width if the owner thereof does not own nor can acquire adjoining property, provided, however it meets 4.01-A.

3.04 Moving of Houses, Building and Structures: No pre-existing home, building or structure shall be moved into the Township of Newfield from a point outside the Township limits, or shall be moved from one location in the Township to another until the owner of the home, building or structure submits a site plan for review to the Newfield Township office, which shows the location of the home, building or structure on the new proposed location, insuring that it can meet all required setbacks, and secures the necessary permits from the Zoning Administrator.

3.05 Zoning Violations: No person shall:

A. Perform any construction without a zoning permit.

B. Change the present grade of land, unless the change will make the grade closer to the present road grade in front of the building lot. Under no circumstances, can any grade existing be changed that is likely to cause erosion or water drainage to any adjacent property.

C. Obtain a zoning permit for a structure unless such structure is located on land with access width of at least (20) feet to a road, which is adopted into the County Road System, and certified as such.

D. Use of a structure in violation of the land uses allowed in the zoned district in which it is located; nor, can any building be converted from one use to a different use without first obtaining a Zoning Permit and a building permit.

E. No dwelling shall have less than two hundred-forty (240) square feet of floor space area, measured by the exterior circumference, excluding porches, stoops, entrance ways, and other non-winterized portions of the house. No duplex shall have less than one thousand- eighty (1080) square feet of floor space area. Measured by the exterior circumference, excluding porches, stoops, entranceways and other non - winterized portions of the house.

3.06 Home Occupations: Occupations engaged within a dwelling by the resident or residents of the same the following are allowed, if the same comply with conditions and limitations:

A. Are operated in their entirety within the dwelling or garage and not within any accessory building located upon the premises, except for incidental storage in or use of a residential-type garage upon the premises, and where the goods or use of a residential-type garage upon the premises, and where the goods or services sold are made, assembled, or performed wholly within the building, and,

B. Are only conducted by the person or persons occupying the premises as their principal residence a major portion of each month; provided how-ever, the Township Board shall have the authority to permit additional subordinate assistants who do not so reside within the said dwelling where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional assistants exceed one (1) in number, and,

C. No occupation shall be conducted upon or from the premises, which would constitute a nuisance, or annoyance to adjoining residents by reason of noise, smoke, odor electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises or use any accumulation of materials, or discarded materials, or junk, as defined in Section 2.17 and 2.19 in these



Zoning Ordinance, anywhere on the premises.

D. Any such home occupation shall be subject to the inspection by the Zoning Administrator of the Township of Newfield and may be terminated by order of such Zoning Administrator whenever the same fails to comply with the Zoning Ordinance.

3.07 Land Uses Prohibited: No land may be used in violation of any of the following provisions:

A. To cause air or water pollution, erosion, or excessive noise, dust, or anxious smell, water runoffs from property, or any activity which creates a hazard to adjacent land, improvement or occupants.  
Exception: under law, which is the “the Right to Farm Act”.

B. No future use may be made of property unless specifically allowed, without first obtaining approval.

C. Junkyard: Means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion, or recovery of junk, and is a business which is included in the Standard Industrial Classification Manual of 1987, prepared by the US Office of Management and Budget classification 5931, whether a part of a licensed landfill operation or not: but shall not include any part of a landfill as defined in the Solid Waste Management Act; requires a Special Use and State Guidelines apply. License must be on file with Township Clerk before starting operation.

D. To build, construct, or add to, use or develop any public or private waste disposal plant, lay pipes for disposal, or treatment, application, incineration, or storage of human, livestock, commercial, or manufacturing wastes either liquid, gas, or solid, without first obtaining a Special Use Permit from the Township Board. For purposes of this Section, the terms “waste” and “disposal” shall be given broad interpretation and limited to waste standards as may be defined in License must be on file with the Township Clerk and Township Board approval is required, before starting operation.

E The act or state of a dwelling in any portable tent, unlicensed recreational travel trailer, temporary mobile home, motor home, or other structure, on any lot in the Township for a period in excess of a total of ninety (90) days during a twelve (12) month period.



3.08 Temporary Dwelling Structures: No mobile home, whether of a fixed or movable nature, may be erected, altered or moved upon any lot or parcel of land in Newfield Township and used in whole or in part for dwelling purposes unless authorization, therefore, as a Special Use is first obtained from the Zoning Administrator for a period not to exceed six (6) months. The temporary dwelling structure may be used as a residence for a period not to exceed six (6) months provided that the ability and intent to erect a permanent dwelling on the premises is shown by:

A. Zoning, building and other applicable permits have been issued for the permanent building.

B. On-site sewer system permit has been granted by District 10 Health Department for the temporary and permanent building.

C. That the permanent building is started within sixty (60) days after the Zoning Permit is obtained from Newfield Township Zoning Administrator.

Time Extensions: If a temporary dwelling structure is to be maintained for a period beyond six (6) months as authorized by the Zoning Administrator and then application shall be made to the Zoning Administrator and extension at least forty-five (45) days prior to the expiration of the authorized time period.

The Zoning Administrator shall review the progress being made. No more than one (1) dwelling unit may be established per lot, except as may be authorized by specific provisions in this Zoning Ordinance. (See 5.03 and 9.03 Special Uses).

3.09 Area Requirement: No yard or lot existing at the time of passage of this Zoning Ordinance shall be reduced in size or area below the minimum requirement set forth herein. Yard or lots created after the effective date of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.

3.10 Yard Space, General: The required yard space for each building, structure, or use shall fall entirely upon land within the district or districts, in which the use is permitted.

3.11 Other Laws, Codes, Ordinances and Regulations: Nothing in this Zoning Ordinance shall relieve the owner of a lot or structure from complying with any other law, code, ordinance or regulation. If there is an apparent conflict between such law, code, ordinance or regulation, an attempt shall be made to satisfy the

requirements of both provisions. If resolution of the conflict cannot be achieved, then the greater standard shall apply.

3.12 Private Swimming Pools: A private swimming pool shall be a pool not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and half (1 ½) feet. No such swimming pool shall be allowed in any district unless it complies with the following conditions and requirements.

A. It may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than ten (10) feet to any property line of the property to which it is located, this includes above and below ground pools.

B. The swimming pool, or the entire property on which it is located, shall adhere to State Laws.

3.13 Plat Violations: Where the Zoning Administrator determines that an area is proposed for subdivision in violation of the State Plat Act, No. 288, of 1967, no building permits shall be issued.

3.14 State Regulations: Recreational Condo's and Cluster Housing will be regulated by State laws and will only be approved by Newfield Township Board.

3.15 Expiration of Zoning Permit: Zoning permit will expire 18 months after the date issued unless construction shall have commenced on a material and visible basis by such date. At which time a new zoning permit will be required.

**ARTICLE FOUR (4)**

**NONCONFORMITIES**

4.01 General: Where the districts established by this Zoning Ordinance, and amendments thereto, contain structures, uses which were legally established or create prior to the enactment of this Zoning Ordinance, and amendments thereto, which structures uses would be prohibited under the provisions of this Zoning Ordinance, said structures, uses, or lot of record may be continued, subject to the provisions below.

A. To maintain neighborhood character, all lots shall meet the area, side yard and setback requirement of at least sixty-six (66) percent of the total number of developed lots within four hundred (400) feet of the lots in question on both sides of the same street; provided, however, that if there are not developed lots with the above space requirements, a zoning permit may be issued, if setback requirements are met, even though the lot area requirement is not met.

4.02 Nonconforming Uses:

A. A nonconforming single-family dwelling may be enlarged, increased in size, moved or extended to occupy a greater area of land than was occupied at the effective date of this Zoning Ordinance and amendments thereto, if a Zoning Permit is obtained by the Zoning Administrator, stating that zoning setback requirements can be met or a variance request is granted by the Zoning Board of Appeals.

B. No nonconforming use shall be changed to another nonconforming use.

C. Any nonconforming use of land is limited to that portion of the land which is actually used prior to its becoming nonconforming by the adoption of this Zoning Ordinance, even though the whole parcel was a conforming parcel prior to the Zoning Ordinance, except uses, especially sand and gravel mining, where the reasonable use of land requires a progressive depletion to make use of any further portion, provided, however, that such nonconforming status shall be limited to the regulations for the district in which it is located after it is moved.

D. All non-conforming structures can be rebuilt within the footprints of the existing foundation.

4.03 Termination of Status: The nonconforming status of a use or structure shall be terminated immediately upon any of the following:

A. When a nonconforming use or structure has been abandoned or discontinued for a period of twelve (12) consecutive months, regardless of any intent to resume operation or use.

B. When a nonconforming structure or structure housing a nonconforming use has been officially condemned.

C. When a nonconforming structure or structure housing a nonconforming use is removed from its previous site or relocated on the same site, unless a variance request is granted and all necessary zoning permits are obtained from the Zoning Administrator.

4.04 Township Acquisition: The Township of Newfield may acquire, by purchase, condemnation, or otherwise, private property or any interest in private property and, or vacant land for the removal of nonconforming structures and uses. The cost and expense, or a portion thereof, of acquiring the private property be paid from the general funds or assessed to a special district in accordance with the applicable statutory provisions related to the creation and operation of special assessment districts for public improvements in the Township of Newfield. The elimination of the nonconforming uses and structures in any zoning district is to be for a public purpose and for a public use. The Township Board, upon a recommendation of the Planning Commission, first at a public hearing of the Planning Commission and then at a public hearing of the Township Board may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Act # 149 of the Public Acts of 1911, as amended being Sections 213.21 to 213.41 of the Michigan Compiled Laws or other applicable statute. Reasons for the Acquisition must be explained in full at the Public Hearings, with input from the township residents allowed.

**ARTICLE FIVE ( 5 )**

**R - 1 RESIDENTIAL , LAKES & STREAMS**

5.01 Purpose: It is the purpose of the R-1 District to encourage the establishment and preservation of residential neighborhoods, characterized by single-family buildings on large and medium - sized lots.

5.02 Permitted Uses:

- A. One family dwelling
- B. Duplex Housing
- C. Essential services and utilities to serve the principal permitted uses.
- D. Customary accessory uses, provided such uses are clearly incidental to the principal permitted uses.
- E. Site Condo's

5.03 Special Uses:

- A. Public and semi-public uses including, but not limited to the following:
  - Public and Private Schools
  - Churches
  - Recreation Areas
  - Parks
- B. Earth Sheltered Dwellings

5.04 Requirements: The following requirements shall be observed:

- A. Minimum Lot area
  - R-1 25,000 square feet, single family
- B. Every dwelling shall be no less than 540 square feet; duplex must be 1080 square feet.
- C. Yard Setbacks: Setbacks shall be:

FRONT YARD SETBACK	REAR YARD SETBACK *	SIDE YARD SETBACK
40 FEET	30 FEET	20 FEET

\*A building two hundred (200) square feet or less can be one-half the distance from the rear yard set back.

- D. Maximum Building Height: 3 stories not to exceed thirty-five (35) feet in height.
- E. Signs: Subject to Article 10.

5.05 Waterfront Areas: Any land within four hundred (400) feet of waters' edge of any lake, tributary, creek, natural channel, outlet or inlet to any said lake shall be considered residential.

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A. Setbacks: The required minimum setback of a structure shall be not less than one hundred (100) feet from the lake, unless there is structure on any adjoining lot, in which case the structure shall be set back one-half ( $\frac{1}{2}$ ) the distance between one hundred (100) feet from the lake and the main structure on any adjoining lot, using the main structure closest to the lake on any adjoining lot.

B. Private Ponds and Private Lakes: Private ponds and private lakes without public access are excluded from setbacks from water's edge. These private ponds and lakes shall have zero setbacks at water's edge only.

**ARTICLE SIX (6)**

**MOBILE/MANUFACTURED HOME (S) AND MOBILE HOME PARK (S)**

6.01 Mobile/Manufactured Home Requirements: Before the installation of any mobile/manufactured home in the Township of Newfield, the following requirements must be met.

- A. Septic, plumbing, electrical and building permits must be obtained.
- B. Units shall have a Michigan State Construction Code Commission or Bureau of Construction Code Label.
- C. You must have a recommended foundation set-up as specified by the manufacturer under mobile/manufactured home.
- D. Mobile/manufactured homes shall be tied down according to manufacturer's specifications or in an approved manner.
- E. Mobile/manufactured homes shall be skirted with a non-combustible material and securely fastened at the top and bottom.
- F. Any additions will have to meet State Code, No. 1401, for more information contact Building Inspector.
- G. No mobile/manufactured home or building hereafter erected shall be used or occupied in whole, or in part, until Building Inspector has issued the Certificate of Occupancy.
- H. Two (2) mobile/manufactured homes cannot be fastened together unless specifically designed for this purpose.
- I. Mobile/manufactured homes must have a title and a recorded parcel number.
- J. Mobile/manufactured homes shall be a minimum of fourteen (14) feet in width exclusive of any additions and must meet at least one (1) of the following:
  1. Is built to 1989 HUD Standards as evidenced by the intact seal and is constructed using 1996 compliant materials (Sheeting on exterior walls, OSB on flooring) or
  2. Built to 1996 HUD Standards and retains the manufacturer's certificate of compliance including the HUD red and silver seal affixed as per the manufacturer or
  3. Meets 1996 BOCA code or
  4. Meets 2000 HUD Manufactured Home standards and has the manufacturer's certification as evidenced by the intact seal.

K. Must be inspected and found in compliance by Newfield Township Building Inspector.

6.02 Permits: After an acceptable site for a Mobile/manufactured Home Park is obtained, the Zoning Administrator shall issue a zoning permit.

6.03 Compliance: The structure shall comply with all of the provisions of the Fire Code and Zoning Ordinance.

6.04 Replacing of existing Mobile/manufactured Homes: Old mobile/manufactured home to be removed within sixty (60) days of occupancy of new mobile/manufactured home.



ARTICLE SEVEN (7)

**AR - 1 AGRICULTURAL & RECREATIONAL DISTRICT**

7.01 Purpose: This district is intended to provide for the continuation of general farming and related activities in those areas best suited for such development and to prevent the in timely and uneconomical scattering of residential, commercial, or industrial development into such areas.

7.02 Permitted Uses: No use of land is permitted in this AR - 1 district except the following uses:

- A. Agriculture, farming, dairying and stock raising, and all agricultural land uses, buildings, dwellings and activities. Land uses and activities that may cause a violation of Nuisance Act P.A.3333 1978, No. 637, shall be referred to the Planning Commission for a Special Use Permit.
- B. Roadside stands for the sale of products grown on the premises, if sufficient off-street parking space for customers is provided.
- C. Essential services and utilities to serve the principal permitted use.
- D. Greenhouse, orchard and plant nurseries.
- E. Wood lots and tree farms.
- F. Customary accessory uses provided such uses are clearly incidental to the principal permitted use.
- G. Public recreational areas and wildlife refuges.
- H. Harvesting of wild crops such as marsh hay.
- I. Soil and water conservation programs.
- J. Single family dwellings.
- K. Migrant housing - State regulated.

7.03 Requirements: The following requirements shall be observed:

A. Minimum lot area: Two (2) acres.  
Any parcel prior to this agreement, which meets setbacks, will be considered buildable. Zoning Administrator informs parties of requirement and will notify them that the parcel is not buildable.

B. Yard Setbacks: Setbacks shall be:

FRONT YARD SETBACK	*REAR YARD SETBACK	SIDE YARD SETBACK
40 FEET	75 FEET	50 FEET

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\* A building two hundred (200) square feet or less can be one-half the distance from the rear yard setback.

**ARTICLE EIGHT (8)**

**C - 1 COMMERCIAL DISTRICT**

8.01 Purpose: This district is intended to provide for the orderly and attractive clustering, at appropriate locations, of retail and service establishments, such as churches, halls, funeral homes, single and multiple dwellings, mobile homes which serve both the day-to-day requirements of nearby residential areas.

8.02 Requirements: The following requirements shall be observed:

A. Minimum Lot Area: One (1) acre for commercial enterprises.

B. Yard Setbacks: Front, rear and side yard setbacks shall be:

FRONT YARD SETBACK	*REAR YARD SETBACK	SIDE YARD SETBACK
30 30 FEET	35 FEET	10 FEET

\*A building two hundred (200) square feet or less can be one-half the distance from the rear yard setback.

C. Maximum Building Height: No principal structure shall exceed three (3) stories or thirty-five (35) feet in height.

D. Signs: Subject to Article 10.

E. Site plan approval must be obtained from the Planning Commission and the Township Board, including \*\*parking. Land use activities that may cause a violation of Nuisance Act 5.2963 shall be referred to the Planning Commission for a Special Use Permit.

F. Residential buildings will follow residential setbacks and zoning.

\*\* Parking - see section 2.32, Parking Space, Off-Street, page 9 and 19.

## ARTICLE NINE (9)

### SPECIAL USES

9.01 Purpose: Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with conclusive experience regarding some of the older, familiar kinds of uses call for a more flexible and equitable procedure for properly accommodating these activities in the Township. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied, depending upon functional characteristics competitive situations and the availability of land, rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the Township's inhabitants. In order to accomplish such a dual objective, provision is made in this Zoning Ordinance for a more detailed consideration of each specified activity as made in this Zoning Ordinance for a more detailed consideration of each specified activity as it may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors.

Land and structure uses possessing these particularly unique characteristics are designed as SPECIAL USES and may be authorized by the issuance of SPECIAL USE PERMIT with such conditions and safeguard attached as may be deemed necessary for the protection of the public welfare. The following sections, together with references in other Articles, designate what uses require a SPECIAL USE PERMIT. With any exception noted, that procedures for obtaining such a permit apply to all special uses indicated.

9.02 Legislative Nature of Special Uses: The Township Board in granting a special use, shall act and is considered to act under authority of the Zoning Enabling Act of the State of Michigan for the Township, being Act # 184, of the Public Acts of 1943, as amended by Act # 637 of the Public Acts of 1978.

No decision to grant an application for a Special Land Use shall be deemed

to apply to any other premises in the Township, even if circumstances appear to another or subsequent applicant to be similar to or the same as those involved in a previous grant. No such grant of an application for Special Use District shall be deemed an administrative or ministerial act, but shall be a decision accomplished by the legislative discretion granted to Township by the Constitutional or statutory authority aforesaid.

9.03 Procedures for Making Application:

A. Applicant: Any person owning or having an interest in the subject property may file an application for one or more Special Use Permits provided for in this Zoning Ordinance in the zoning district in which the land is situated.

B. Application: Application shall be submitted through the Township Zoning Administrator to Planning Commission on a special form for that purpose.

C. Data required on Application: Every application shall be accompanied by the following information and data.

1. Special form supplied by the Zoning Administrator filled out by the applicant.
2. Site plan, plot plan, or development plan, drawn to readable scale, of the total property involved showing the location of all existing and proposed structures, the types of buildings and their uses.
3. Preliminary plans and outline specifications of the proposed development.
4. A statement with supporting evidence regarding the required findings specified in Section 9.04.
5. The Planning Commission may require site plans, maps, soil, and hydrographic studies, engineering or architectural drawings and plans, photographs, legal surveys, and in cases of larger projects, environmental impact statements, but the Planning Commission is not limited hereby, and may require such other documents and information as may be appropriate or germane to its review.

9.04 Review and Findings: The Planning Commission shall review the application at its next regular meeting following filing and shall set a date for public hearing within forty-five (45) days thereafter. The Planning Commission shall cause to be published one (1) notice of public hearing not less than five (5) or more than fifteen (15) days before the date the application will be considered and

shall notify by regular mail the parties of interest and all property owners within three hundred (300) feet of the subject property. The applicant for a Special Use Permit will furnish a list of concerned property owners and parties of interest to the Board.

9.05 Recommendation to the Township Board: The Planning Commission shall recommend approval or denial of an application for a Special Use Permit to the Township Board. Recommendations shall include an accurate description of the proposed Special Use, a description of the property upon which the Special Use is sought to be located, recommendations and proposed conditions of the Planning Commission, along with a summary of comments at the meeting of the Planning Commission considering the application.

9.06 Issuance/Denial of Special Use Permit: The Township Board shall affirm, modify or deny the application of Special Use Permit with all conditions and instruct the Zoning Administrator to issue/deny the Special Use Permit. If conditions are required prior to or with the permit, they shall be typed on paper, and signed by the Township and applicant, and shall be binding upon the owners of the property or their successors.

9.07 Denial: In the event that the Township Board denies an application for a Special Use Permit, the factual basis and reasons for the denial shall be set forth in written findings of fact. Such findings shall be adopted contemporaneously with the action of the denial, and placed on file with the Clerk as a public record.

9.08 Appeals: A person considering himself aggrieved by a decision of the Township Board in the granting or denial of a Special Use Permit shall the right to appeal the said decision to the Circuit Court within (30) days after the denial. The appellant shall file a letter with the Township Clerk within ten (10) days of filing of the written decision of the Township Board. The applicant's letter shall specify with particularity the reason (s) that the appellant is appealing the decision of the Township Board and the appellant's appeal shall be limited to those issues stated with particularity in the said letter. The appeal shall be based and considered solely upon the record including the appellant's letter of appeal, the minutes of the public hearing and the Planning Commission's recommendation to the Township Board prior to its decision.

9.09 Modification of Approval of Site Plan: Once site plan approval has been granted by the Township Board, changes to the approved site plan shall require a re-submission to the Township Board of the modifications which shall require no other procedural steps.

9.10 Financial Guarantees: In approving the site plan, the Township Board may require that a bond or other financial guarantee acceptable to the Township of ample sum be furnished by the developer to ensure compliance.

9.11 Appeals and Questions of Interpretation of Zoning Ordinance: Any person having a direct interest in adjoining lands or lands within the district affected by the decision of the Township Board in granting or denial of the site plan approval shall have the right to appeal said decision to the Circuit Court within thirty (30) days after a written decision is submitted to the Clerk. The appeal shall be exclusive and must be filed with the Township Clerk within ten (10) days of the decision of the Township Board.

9.12 Non-Residential Structures and Uses: The following uses are permitted in one or more districts and they include facilities such as, but not limited to, the following:

- A. Public and private hospitals, schools, churches, and government buildings.
- B. Public and private parks, parkways, recreational facilities and fraternal lodges or similar civic or social clubs.
- C. Utility and public service facilities and uses.
- D. Special uses designated in any district. In as much as the non-residential uses permitted in residential districts may have an adverse effect on residential properties if not properly located and designed, the following general standards must be met prior to the development of such uses:
  - 1. Hazardous areas must be adequately fenced to avoid accidents; such areas include public utility substations.
  - 2. Any permitted non-residential structure should preferably be located at the edge of a residential district, abutting a commercial district, or a public open space.
  - 3. If possible, all permitted non-residential uses should front on a major street.
  - 4. Motor vehicle entrance and exit should be made on a major street to avoid the impact of traffic generated by the non-residential use upon residential areas.
  - 5. Site locations should be chosen which offer natural or man-made barriers that would lessen the effect of the intrusion on a non-residential area.
  - 6. Non-residential uses should not be located so as to cause costly public improvements.

7. Township Clerk to be responsible for files and records.

9.13 Rescinding Special Use Permit by permittee.

A special use permittee may have their special use permit rescinded by submitting a request, in writing, and signed by all applicants on the permit. The request will go to the planning commission first and then to the township board for acknowledgment. Rescission is effective upon submission, if signed by all applicants.

9.14 Rescinding Special Use Permit by non-compliance.

A special use permit will be automatically rescinded if full compliance of permit and conditions are not met within 1 years of issue or 2 years of non-compliance with all conditions of the permit.

9.15 Review of Special Use Permits.

Annually the zoning administrator and the planning commission will review all issues Special Use permits for the township and make recommendations to the township board should non-compliance be observed.



**ARTICLE TEN ( 10 )**

**SIGNS**

10.01 Prohibited Characteristics of Signs:

A. No sign shall resemble, initiate or approximate the shape, size, form or color of railroad or traffic signs, signals, or devices.

B. No sign shall be located as to interfere with the visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.

C. No sign shall be erected, relocated, or maintained so as to prevent free ingress egress from any door, window or fire escape, and no sign shall be attached to a standpipe or fire escape.

**ARTICLE ELEVEN (11)**

**GRAVEL PITS**

11.01 Procedures & Conditions: Commercial gravel pits, including the removal of any soil resources in areas greater than one (1) acre are permitted in C-1 and AR-1 Districts when authorized by the Planning Commission after public hearing. The following procedures and conditions shall be met before approval of any such proposal is given.

A. Any owner, lessee or other person shall file an application with the Planning Commission, which shall contain the following information:

1. Name of owner of lands from which removal is to be made.
2. Proposed method of removal and equipment to be used in the removal.
3. Proposed method of restoration of the area after removal of the resources is completed.

B. The application may be accompanied by a map of the parcel indicating all buildings, street, drainage facilities and natural features within two hundred (200) feet thereof if the Planning Commission deems necessary.

C. Necessary Documents: The application may be accompanied by three (3) copies of a site plan drawn to scale of 1" (one inch) = 50 feet or larger containing the following information if the Planning Commission deems it necessary:

1. Site boundaries and dimensions.
2. Location of proposed structures on site and dimensions of said structures.
3. Street entrances and exits, parking and other circulation features.
4. General topography (2 foot intervals) of the site and all natural features on the site.
5. Land uses adjacent to the site within three hundred (300) feet.
6. Proposed landscaping, screening and walls.
7. Proposed alterations of topography and drainage patterns.
8. Propose sewage disposal and water supply.
9. Other information as may be required for a particular use as delineated in this section of the Zoning Ordinance.

10. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance. All truck traffic shall be directed away from residential streets.

D. Where quantities of earth are to be removed from the parcel, a topographic contour plan of proposed restoration elevations might be presented with the application, if the Planning Commission deems necessary.

E. Prior to holding a public hearing the Planning Commission will submit the application and the required maps to the Oceana County Planning Commission for study and opinion and may, if they deem it necessary, seek the advice of the County Road Commission or an engineer designated by the County, the County Drain Commissioner and the Soil Conservation Service to determine that the proposed use will not severely threaten the public safety or the property rights of others and that the Sedimentation Control Standards of the Oceana Soil Conservation Service will be met.

F. In making its final decision, the Township Board shall determine that the following conditions have to be met by the applicant:

1. No business or industrial structures or buildings of a permanent nature shall be erected, except when the mining activity occurs in a Commercial District where such buildings are a permitted use.
2. No truck parking or truck storage shall be located within two hundred ( 200 ) feet of any adjacent residence, or within fifty (50) feet of any adjoining property.
3. No part of the removal shall take place closer than seventy-five (75) feet from centerline of road, unless Township Board approves otherwise.
4. The proposed restoration elevations will be compatible with the surrounding areas, and adequate safeguards will be made to ensure proper drainage.
5. The property will be restored by the replacement of topsoil and appropriate planting shall stabilize such soil.
6. All truck traffic shall be directed away from residential streets.
7. A performance bond or cash shall be furnished to the Township Clerk insuring the proper rehabilitation and reclamation of the mined

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area prior to the commencement of any such mining or excavating operation. The amount of the guarantee shall be not less than Two Thousand (2000) dollars per acre proposed to be mined or excavated in the following twelve (12) months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this Zoning Ordinance and the applicant's filed plan. No more than ten (10) acres to be worked at a time.

8. If operations cease for a period of twelve (12) months, the bond will be rescinded if the area is cleaned up.

9. Hours: The crushing operations shall be restricted to the hours of 7:00 a.m. until 7:00 pm and no operations shall be allowed on Sundays and Holidays.

**ARTICLE TWELVE (12)**

**ADMINISTRATION**

12.01 Designation: The Township Board shall appoint a Zoning Administrator, whose duty it shall be to administer and enforce the provisions of this Zoning Ordinance.

12.02 Zoning Administrator Duties: In administering and enforcing this Zoning Ordinance, the Township Zoning Administrator shall perform the following duties:

- A. Provide necessary forms and applications.
- B. Issue Zoning Permit upon the demonstration that the applicant's plans are found to conform to the provisions of this Zoning Ordinance.
- C. The Zoning Administrator shall not vary, change, or grant exceptions to any terms of this Zoning Ordinance, or to any person making application under the requirements of this Zoning Ordinance.
- D. Issue any authorized permits.
- E. Identify and record information relative to nonconformities
- F. Provide assistance in zoning changes and amendments to the Zoning Ordinance text and map.
- G. Maintain files of application, permits and other relevant documents and said records are open for public inspection.

12.03 Zoning Administrator Powers: The Zoning Administrator shall have all the powers and authority conferred by laws, statutes and ordinances to enforce the provision of this Zoning Ordinance, including, but not limited to, the following:

- A. Access to any structure or premise for the purpose of performing the Zoning Administrator's duties between 8:00 a.m. and 6:00 p.m. by permission of the owner or upon issuance of a special inspection warrants.
- B. Upon reasonable cause or question as to proper compliance, the Zoning

Administrator shall notify, in writing, the persons responsible for such violations, indicating the nature of the violation and ordering action necessary to correct it. He/she shall order discontinuation of illegal uses of land, buildings or structures, removal of illegal work being done, issue cease and desist orders requiring cessation, or take any other action authorized under the Public Safety Ordinance to ensure compliance with or prevent violation of its provisions.

12.04 Zoning Permit:

A. It shall not be necessary for a nonconformity, existing on the effective date of this Zoning Ordinance to obtain a Certificate of Zoning Compliance in order to maintain its legal nonconforming status. However, no nonconforming building or structure shall be renewed, changed or extended until the Zoning Administrator shall have issued a Certificate of Zoning Compliance. This Certificate shall state specifically wherein the nonconforming building, structure or use differs from the provision of this Zoning Ordinance.

B. A permit for erection, alteration, moving or repair of any building shall not be issued until a Zoning Permit has been issued therefore. Issuance of such a Permit shall indicate that the use (s) and plans for which the permit is requested comply with the Zoning Ordinance.

C. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Zoning Permit shall have been issued therefore by the Zoning Administrator. The Permit shall state that the building, structure, and lot and use thereof, conform to the requirement of this Zoning Ordinance.

12.05 Building Permits Required:

A. No building permit for erection, alteration, or moving of any building shall be issued until a Zoning Permit has been issued.

B. No building or other structure shall be erected, moved, added to, or structurally altered without a Building Permit pursuant to the State Building Codes and issued by the North Country Inspection Service.

C. Zoning Administrator may approve nonconforming lots, created prior to

the ordinance, if they meet setback regulations.

D. Plans submitted in the application for a building permit shall contain information necessary for determining conformity with this Zoning Ordinance including a copy of the Zoning Permit.

12.06 Certificate of Occupancy:

A. No building, structure or lot for which a zoning compliance permit has been issued shall be used or occupied until the North Country Inspection Service has, after final inspection, issued a Certificate of Occupancy indicating compliance has been made with all provisions of this Zoning Ordinance. However, the issuance of a Certificate of Occupancy shall, in no case, be construed as waiving any provision of this Zoning Ordinance.

B. Buildings accessory to dwellings shall not require separate Certificates of Occupancy but may be included in the Certificate of Occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

C. Certificates of Occupancy, as required by the building code for new buildings or structures, or parts thereof or for alterations to or changes of use of existing buildings, structures, shall also constitute Certificates of Occupancy as required by this Zoning Ordinance.

D. A record of all permits issued shall be kept on file in the office of the North Country Inspection Service and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property.

**ARTICLE THIRTEEN (13)**

**ZONING BOARD OF APPEALS**

13.01 General: There is herewith created a Zoning Board of Appeals consisting of five (5) members. The Township Board shall appoint members, provided that no elected officer of the Township shall serve as Chairman of the Board of Appeals and that one (1) member of such Zoning Board of Appeals shall be a member of the Planning Commission. One (1) member may be a member of the Township Board.

13.02 Appointment & Terms: Of the members appointed to the first board, one (1) shall serve a term of one (1) year, one (1) shall serve a term of two (2) years, and one (1) shall serve a term of three (3) years. Thereafter, all members shall be appointed for a term of three (3) years, provided that each member shall serve until his successor is duly appointed.

13.03 Compensation: Members of the Zoning Board of Appeals may be paid compensation in an amount determined by the Township Board and may be paid their necessary expenses in the performance of official duties.

13.04 Officers: A chairman and vice-chairman shall be elected from among the members and a secretary shall be appointed who need not be a member of the Zoning Board of Appeals. The chairman may not be an elected Township official.

13.05 Powers: The Zoning Board of Appeals shall have and exercise the following powers.

- A. To adopt rules of procedure governing the transaction of its business.
- B. To hear and decide appeals from and review any order, requirements, decision or determination made by any administrative official charged with enforcing the provisions of this Zoning Ordinance.
- C. To order the issuance of permits for buildings and uses.
- D. To order the issuance of variances from the terms of any official of which there shall be two (2) kinds. The type and required findings and conditions are as follows:

- 1. Dimensional Variance: A dimensional variance from any standard established in this Zoning Ordinance may be granted in the discretion of the Zoning Board of Appeals to allow a modification from such



standard established area, yard, height, floor space, frontage, setback or similar numerical restriction, but only after substantive evidence established that there are “practical difficulties”: in carrying out the strict letter of this Zoning Ordinance. They shall be permitted only when there are “practical difficulties”. (1) How substantial the variance is in relation to the zoning requirements; (2) the effect, if the variance is allowed, of the increased population density thus generated on available governmental facilities; (3) whether a substantial change will be effected in the character of the neighborhood or a substantial detriment created for adjoining properties; (4) whether the difficulty can be obviated by some feasible method, other than a variance, and (5) whether, in view of the manner in which the difficulty arose, and considering all of the above factors, the interest of justice will be served by allowing the variance; (6 ) the plight of the landowner is due to the circumstances unique to his property not created by the landowner.

“Unnecessary hardship” on a landowner, by the denial of a dimensional variance, shall not be a factor in the determination to be made by the Zoning Board of Appeals. Conditions may be imposed on an applicant prior to granting a variance, which shall be written down and signed by the applicant prior to receiving a variance. The applicant for a variance which, in the opinion of the Zoning Board of Appeals, may result in a material adverse effect on the environment may be requested by the Board to demonstrate the nature and extent of the effects (s).

2. Land Use Variances: A land use variance is a land or building use in contravention of any of the use requirements of this Zoning Ordinance. The Zoning Board of Appeals may, in its sole discretion, grant a variance upon a finding of “unnecessary hardship” which may be found upon substantial evidence being submitted that all of the following are found to exist:

- a. That property cannot be used in a manner consistent with existing zoning.
- b. That the hardship results from the application of the Zoning Ordinance to this property; and,
- c. The hardship of which the owner who complains is suffered by the owners property directly and not shared by others; and,
- d. The hardship is not the result of the owners own actions;

and,

e. The hardship is peculiar to owner's own property.

In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may sometimes be a factor, which could be considered, but only if the applicant has satisfied all other tests.

Whether any weight shall be given to the economic return factor shall be dependent upon a determination that the owner has been deprived of all beneficial use of his property, in the case of single-family residential property.

In the case of zoned property normally held for the production of income, excluding nonconforming commercial uses in single-family residential zones, lack of reasonable use of the property as zoned may be determined upon showing lack of economic productive return on the property. In all cases, proof that the property would be more valuable if the use were changed from the allowed use, should be immaterial, and the Zoning Board of Appeals shall not accept such evidence in their considerations.

- E. Additional Findings and Conditions: The Zoning Board of Appeals shall, after finding "unnecessary hardship" exists, also find the proposed use meets the following conditions, upon adequate evidence providing the use.
1. Will be consistent with the intent and purposes of this Zoning Ordinance.
  2. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity and that such a use will not change the essential character of the same area.
  3. Will not be hazardous or disturbing to existing or future neighboring uses and will not cause disturbing emissions of electrical discharges, dust, lights, vibration, or noise.
  4. Will be served adequately by existing essential public facilities and services, such as highways, streets, police and fire protection, drainage structures refuse disposal, or schools or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
  5. Will not create excessive additional requirements at public cost of

public facilities and services and will not be detrimental to the economic welfare of the Township.

6. Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or require outdoor storage of raw materials produced in the use processes.

7. Whether a hazard to life, limb, or property, caused by fire, flood, erosion or panic may be created by reason or as a result of the use, or by the structures to be used therefore, or by the inaccessibility of the property or structures thereon for the convenience of entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.

8. Whether the use, or the structures to be used therefore will cause an overcrowding of land or undue concentration of population.

9. Whether the plot area is sufficient, appropriate and adequate for the use and the reasonable anticipated operation and expansion thereof.

10. Whether the use to be operated is unreasonably near to a church, school, theater, recreational area or other place of assembly.

### 13.06 Hearings and Appeals:

A. Appeals may be taken by any person affected, including the Township Board, or by any officer, department, board or bureau of a town, municipality, county or state. Such appeal shall be taken within thirty ( 30 ) days by filing with the Zoning Board of Appeals a notice of appeal specifying the grounds thereof.

B. Hearing and Notice: Appeals shall be heard in forty-five (45) days after receipt, at a public hearing, notice to be published once at least ten (10) days prior to the hearing in a newspaper setting forth the time, date, place, and reason for the hearing. Property owners of Township record within three hundred (300) feet in all directions of the affected property shall have a notice sent them by First Class mail. A decision shall be made within thirty (30) days, in writing, setting forth reasons if the appeal I rejected.

C. An appeal stays all proceedings in furtherance of the action appealed from unless the a Zoning Board of Appeals certifies that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property.

D. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.

E. The Zoning Board of Appeals shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The Zoning Board of Appeals shall record the vote of each member on each question, or if absent or failing to vote, indicate such fact. All records shall be open for public inspection.

F. A majority vote of the members of the Zoning Board of Appeals shall be sufficient on any action under consideration.

G. All decisions by the Zoning Board of Appeals in granting variances or in hearing appeals shall be final, except that any aggrieved person or persons, or any department, board of commission, or the State with an interest affected shall have the right to appeal within thirty (30) days after the decision, to the Circuit Court in the County in which the land is located on questions of law and fact. For purposes in determining who constitutes a person with an "interest affected", it shall be deemed to include an applicant, the municipal body or a subdivision of same, a person who resides within three hundred (300) feet, or a person who appeared at the hearing and spoke in opposition to the position taken by the Zoning Board of Appeals.

13.07 Removal: Members of the Zoning Board of Appeals shall be removable for cause by majority vote of the Township Board, upon the filing of written charges with the Township Board. No member shall be removed prior to a public hearing, which shall be held within thirty (30) days of the date of filing of the written charges.

13.08 Vacancies: Vacancies occurring on the Zoning Board of Appeals shall be promptly filled by the Township Board and any member so appointed shall serve the balance of the preceding member's term and shall thereafter be subject appointment in the manner herein above set forth

**ARTICLE FOURTEEN (14)**

**AMENDMENTS**

14.01 Amendments: The regulations, restrictions and boundaries set forth in this may be amended, supplemented, or repealed in accordance with the provisions of this Article.

14.02 Initiation: Amendments may be Initiated by the Township Board, Planning Commission, or by petition of any person owning property within the boundaries of the district subject to the proposed amendment.

14.03 Referral to Planning Commission: Amendments shall be referred to the Planning Commission for study and report and may not be acted upon by the Township Board until it has received the recommendation of the Planning Commission on the proposed amendment, or until sixty (60) days have elapsed from the date of reference of the amendment without a report being prepared by the Planning Commission. Upon receipt of the report and recommendation of the Planning Commission, the Township Board by majority vote, may adopt, in whole or in part, deny, or take any other action on the proposed amendment, as it may deem advisable. Changes and amendments hereunder shall become effective immediately after passage by the Township Board.

14.04 Publication & Filing: Amendments shall be filed with the Township Clerk, and one (1) notice of the amendment shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Said notice shall provide either a summary of the regulatory effect, or the text of the amendment.

14.05 Hearing:

A. No amendment shall be adopted until a public hearing has been held thereon by the Planning Commission.

B. Said public hearing required by this Zoning Ordinance shall include notice of the time, place, date, and purpose and shall be published twice (2) in a newspaper of general circulation in the Township of Newfield, not more than thirty (30) days nor less than twenty (20) days and the second not more than eight (8) days before the hearing.

If an individual property or several adjacent properties are part of the proposed amendment, notice of the public hearing shall be given to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and the tenants at the address given in the last assessment role. The notice shall be made not less than eight (8) days before the hearing and state the time, place and purpose of the hearing. Whenever the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing.

14.06 Lot Division in Recorded Plats Zoning Ordinance:

The division of a lot in a recorded plat is prohibited, unless approved following application to the Township Board. The application shall be filed with the Township Clerk and shall state the reasons for proposed division. No lot in a recorded plat shall be divided into more than four (4) parts and the resulting lots shall be not less in area than permitted by the Township or County Zoning Ordinance. No building permit shall be issued, or any building construction commenced, unless the division has been approved by the Township Board and suitability of the land for building sites has been approved by the county or district health department. The division of a lot resulting in a smaller area than prescribed herein may be permitted but only for the purpose of adding to existing building site or sites. The application shall so state and shall be in affidavit form and shall contain a drawing showing the dimensions and description of each part of the lot as proposed for dividing. Approval of the division of a lot in a recorded plat shall be contingent on an agreement in writing by the applicant that any sales contract, deed or any other document presented for recording at the office of the County Register of Deeds shall be accompanied by a copy of the written approval of the Township Board and a copy of the drawing of the lot as approved for dividing. The County Register of Deeds shall not record a document involving the division of a lot in a recorded plat unless approved by the Township Board in compliance with the provisions of this Zoning Ordinance.



**ARTICLE FIFTEEN (15)**

**C - 2 ADULT ENTERTAINMENT DISTRICT**

15.01 Commercial 2 Description: This district is designed to permit “Adult Entertainment business”.

Location: This district is to be located on 160<sup>th</sup> Street between Buchanan and Baseline.

15.02 Permitted Uses:

A. Any use permitted in the “A-1” district subject to all the restrictions and regulations of the “A-1” district.

15.03 Special Uses:

A. Adult entertainment business as listed in Article Eighteen (18), Public entertainment Ordinance of Newfield Township

15.04 Area and Bulk:

In the Commercial 2 District, no commercial building shall be erected containing less than six hundred (600) square feet of floor space for each story thereof.

15.05 Height Regulations:

A. Every building hereafter erected or structurally altered to exceed fifty (50) feet in height shall, above said height, be set back from the front line on the ratio of one (1) foot for each two (2) feet rise above said fifty (50) feet in height.

B. No building used in any part for dwelling purposes shall hereafter be erected or structurally altered to exceed (3) stories in height.

C. Where lots comprising more than one-half (½) of the frontage on one (1) side of a block are zoned residential and the lots comprising the remainder of said frontage are zoned commercial, the height regulations for the residence district shall apply to the lots zoned for commercial.

15.06 Minimum Lot Area:

The minimum dimensions of the yard and the minimum lot area per building site shall be as follows:

**TOWNSHIP ZONING ORDINANCE NUMBER 2019-1**

- A. Minimum lots area: one (1) acre.
- B. Setback: There shall be a setback line of not less than thirty (30) feet from the “edge of the road right-of-way”.
- C. Yard, side: There shall be a side yard on each side of the lot of not less than ten (10) feet.
- D. Yard, rear: There shall be a rear yard having depth of not less than thirty-five (35) feet.

<b>FRONT YARD SETBACK</b>	<b>*REAR YARD SETBACK</b>	<b>SIDE YARD SETBACK</b>
30	35	10

\*A building two hundred (200) square feet or less can be one - half the distance from the rear yard setback.



**ARTICLE SIXTEEN (16)**

**PUBLIC ENTERTAINING ORDINANCE**

An ordinance to protect and secure the public health, safety and general welfare by the regulation of certain forms of commercial entertainment within the Township of Newfield, Oceana County, Michigan; to provide penalties for the violation of the provisions of this Zoning Ordinance; and to repeal any Zoning Ordinance or part of Zoning Ordinance in conflict herewith.

The Township of Newfield, Oceana County, Michigan ordains:

**16.01 License Required:**

No person, firm or corporation shall engage in the business within the Township of Newfield of offering a public amusement, entertainment, exhibition or performance without first obtaining a license therefore from the Township of Newfield.

**16.02 Owner to See License:**

No person, firm or corporation shall knowingly allow or permit any building or land owned or possessed by him or it to be used for such a purpose unless the Township license therefore has been shown to such owner or possessor.

**16.03 Conditions Precedent:**

No license shall be granted or delivered until the applicant therefore has complied with all of the required conditions precedent to its issuance.

**16.04 Procedure for Issuance:**

A. An applicant shall submit an application not less than sixty (60) days prior to the proposed commencement of such business, under oath, on a form to be provided by the Newfield Township Zoning Administrator, which application shall disclose such pertinent information about applicant, his proposed business location, facilities, maximum capacity to be admitted, business history, and responsibility and shall be accompanied by the following:

1. Evidence that applicant has obtained public liability insurance with limits of not less than \$100,000/\$300,000 and property damage insurance with a limit of not less than \$25,000 from a company or companies approved by the Commissioner of Insurance of the State of

Michigan, which insurance shall insure applicant, his employees and agents, against liability for death or injury to persons or damages to property which may result from the conduct of such licensed business, which policy or policies shall remain in full force and effect for the specified amounts during the term of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the Township Clerk, in writing, at least ten (10) days before the expiration or cancellation of said policy or policies.

2. A corporate security bond in the amount of \$10,000 in a form to be approved by the Township Attorney, condition upon applicant's faithful compliance with all of the terms and provisions of this licensing ordinance and all applicable provisions of this licensing ordinance and all applicable provisions of other township Zoning ordinances, county ordinances, and state ordinances.

3. A license fee of \$100 shall accompany any application for an annual entertaining license to help defray the cost of administering this Zoning Ordinance.

B. The application, supporting data and any other information shall be presented to the Newfield Township Planning Commission. In passing on the application, the Township Board shall determine whether or not the proposed business meets the requirements of this Zoning Ordinance, other applicable Township Zoning ordinances, County Ordinances and State statutes and shall approve or deny the license accordingly. If the license is denied, the basis for denial shall be specified in the resolution of denial.

C. Advertising of applicant's proposed business prior to the issuance of a license by the Township of Newfield shall constitute a violation of this Zoning Ordinance by the applicant and shall constitute a basis for denial of such license.

**16.05 Requirements for Operation:**

After issuance of the license, licensee shall meet the following requirements:

A. The insurance and bond required above shall continue in full force and effect until expiration or termination of the license.

B. Licensee shall permit township, county, and state officials to enter upon the licensed premises at all reasonable times to determine compliance with the requirements of this Zoning Ordinance and other applicable

township, county, and state ordinances and statutes.

C. Licensee shall not knowingly permit violations of any township zoning ordinance, county ordinance or state statute by the employees or patrons.

D. Licensee shall provide off-street parking facilities sufficient to accommodate all persons to be admitted to his place of business based on the maximum capacity specified in the application.

E. Licensee shall provide sufficient fences or barriers or shall so patrol the boundaries of his business premises as to efficiently prevent his patrons from directly trespassing on neighboring premises.

F. Licensee shall so conduct his business that it shall not give rise to a nuisance by reason of noise, vibration, smoke, odor, or dust.

G. Licensee shall limit his business activities to that specified in his license.

H. Licensee shall post a copy of this Zoning Ordinance and a copy of his license in his place of business in a location where his patrons can read them easily.

16.06 Termination:

Each license granted under the provisions of this Zoning Ordinance shall expire at the end of the term specified in the application, but if not so established, shall expire on the next succeeding March 31.

16.07 Non-transferability:

A license issued under this Zoning Ordinance shall not be transferable to any other firm or person.

16.08 Suspension and Revocation:

A license required by the Zoning Ordinance may be suspended or the renewal thereof refused by the Township for misrepresentation of any material fact in the application for such license. Any license may be suspended or revoked by the Township for good cause. The terms "good cause" shall mean any act or omission or the permitting of a condition to exist with respect to the licensee in question which is contrary to the safety or welfare of the public, unlawful or fraudulent in nature, a violation of any provision or provisions of this zoning ordinance under which the license was granted, is beyond the scope of the license issued, or a fact, circumstance or condition which had it existed or been known to the Township at the time the license was granted, would have been sufficient grounds for the

refusal thereof. Revocation of a license may take place only after a hearing before the Township Board upon not less than seven (7) day written notice to licensee at the address stated in the application of the licensee stating the time and place of such hearing and the reasons for revocation.

16.09 Penalty:

Any licensee, employee or agent convicted of a violation of any provision of this zoning ordinance shall be punished by a fine of not to exceed one hundred (\$100) dollars, or by imprisonment for not more than ninety (90) days or any combination of both fine and imprisonment. Each act of violation and each day upon which such violation occurs shall constitute a separate offense.

16.10 Nuisance:

Any violation of any provision of this zoning ordinance is hereby declared to be a nuisance per se and enjoined by appropriate legal action.

16.11 Severability:

It is the legislative intent of the Newfield Township Board that each and every provision of this zoning ordinance be liberally construed to protect and preserve the peace, safety and welfare of the inhabitants of said Township, and should any provision, section or portion thereof be held unconstitutional or invalid, such holding shall not affect the validity of the remaining provisions, it being the intent that the remainder of such zoning ordinance shall stand notwithstanding the validity of any provision thereof.

**ARTICLE SEVENTEEN (17)**

**ADULT ENTERTAINING BUSINESSES “SPECIAL USES”**

Because some uses are recognized as having a deleterious effect upon adjacent areas, causing blight, a chilling effect upon other businesses and occupants, and a disruption in neighborhood development, it is in the best interest of this orderly and better development of the community to limit such “Special” uses to a particular location, in C - 2 Commercial Adult Entertainment.

In order to prevent undesirable concentration of such uses, the following uses and activities shall not be located within one thousand (1000) feet of two other such uses nor within three hundred (300) feet of any residentially zoned district as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed following specified uses and activities and between such uses and the adjoining residentially zoned district.

1. Adult bookstore
2. Adult motion picture theater
3. Adult mini motion picture theater
4. Adult smoking or sexual paraphernalia store
5. Massage parlor
6. Host or hostess establishments offering socialization with a host or hostess for a consideration
7. Pool or billiard halls
8. Open dance hall
9. Pawn shop
10. Tavern, nightclub or cabaret providing live or projected entertainment where intoxicating liquors may or may not be sold for consumption on the premises
11. Pinball or video game arcade or establishment
12. Sauna, hot tub or other similar health or body improvement or enjoyment enterprises.
13. Any combination of the following.

17.01 Definitions:

For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designations shall have the

following meanings:

L. Adult bookstore:

An establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined, or an establishment with segment or section devoted to the sale or display of such material.

B. Adult mini motion picture theater:

An enclosure with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as hereinafter defined, for observation by patrons therein.

C. Adult motion picture theater:

An enclosure with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined, for observation by patrons therein.

D. Adult smoking or sexual paraphernalia store:

An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal. Or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug related substance.

E. Massage parlor:

An establishment where persons conduct or permit to be conducted or engaged in massages of the human body or parts thereof, by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient.

F. Pool or billiard hall:

An establishment having a substantial or significant portion of its space

devoted to the game of pool, billiards, bumper pool, ping pong, darts, dice, cards, or similar activities.

G. Open Dance Hall:

An establishment where open public dancing by patrons is available during at least four days per week or without partners furnished by the establishment.

H. Host or Hostess Establishment:

Establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or member's fee.

I. Pawn Shop:

An establishment where merchandise is left as security for a loan of money and abandoned if repayment of the loan has not been made within a specified period.

J. Sauna, hot tub or other similar health or body improvements enterprises:

Establishment where saunas, hot tubs, whirlpools, sun lamps and similar body relaxing, soothing or improving facilities are available for male or female customers with or without supervision or participation employees or independent contractors of the business.

K. Pinball or Video Game Arcade or Establishment:

Establishments where the principal business consists of customer-operated games or entertainment experience of mechanical, electronic, device or devices engaged by a customer.

**ARTICLE EIGHTEEN ( 18 )**

**WIRELESS COMMUNICATIONS TOWERS & ANTENNAS**

Changing technology in the field of communications has resulted in the reliance upon more versatile and convenient forms for communications. Business, individuals and government have all developed a strong dependence upon the ability to quickly contact others. These regulations are intended to balance the need for providing telecommunications services including wireless data and other forms, with federal and state law and the community's need to insure that the placement of these facilities will not burden natural development and to encourage the co-location of communications services.

**18.01 Communication Tower Height Requirements:**

All communications towers shall conform to this section with the following exceptions:

- A. Television receivers, towers, and antennas less than 60 feet in height as measured from the base to the highest point on the tower.
- B. Amateur Ham, CB, AM or FM transmitters less than seventy-five (75) feet in height as measured from the base to the highest point on the tower.
- C. Freestanding two-way unlicensed wireless Internet towers up to 200 feet above ground level. If any tower is above 100ft it needs to conform to set backs within Article 20.

**18.02 Communication Tower Site Development:**

The following site development requirement shall apply:

- A. A communications tower may be principal or accessory use.
- B. The tower is permitted in AR-1 Agricultural or C-1 Commercial Districts.
- C. The use of guy (or guide) wires is strictly prohibited within C - 1 Commercial Districts.
- D. The base of the tower and wire cable supports shall be fenced with minimum five (5) foot high fence.



**18.03: General Requirements and Performance Standards:**

- A. The tower must be setback from all property lines a distance equal to its height.
- B. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to the property line than thirty ( 30 ) feet. Nothing shall prevent the applicant from applying for a setback variance.
- C. All setback requirements with the zoning ordinance shall be met.
- D. Containment fences shall be constructed with appropriate gates and locks so as to eliminate and prevent unauthorized access.
- E. The plans for the tower construction shall be certified by a registered structural engineer and provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- F. All towers must meet standards of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC).
- G. Metal towers shall be constructed of, or treated with, corrosive - resistant material.
- H. Antenna and metal towers shall be grounded for protection against direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- I. Towers shall be designed to hold four (4) communications carriers and shall meet applicable uniform wind loading standards of the building code.
- J. All signals and remote control conductors of low energy extending substantially horizontally above the ground between the tower or antenna and a structure or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- K. Towers shall be located so that there is room for vehicles doing maintenance to maneuver on the property being owned or leased by the applicant.
- L. Towers shall not be artificially lighted unless required by the FAA.

M. Existing on site vegetation shall be disturbed to the minimum extent practical.

N. There shall be no advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.

O. The structure shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or Special Use approval will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.

P. Where the property adjoins any commercially zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than ten (10) feet to any structure.

Q. A site plan with neighboring properties shall be submitted.

R. The tower may be located on private or township property.

#### **18.04 Removal of Abandoned Antennas and Towers:**

Any antenna that is not operated or any tower that is not utilized for an operating antenna for a continuous period of six (6) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) days shall be grounds for the Township to proceed under applicable State of Michigan law to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The owner of each antenna and/or tower shall submit to the Township in January of each year evidence satisfactory to the Township that the antenna and/or tower is being currently operated and utilized. A performance bond shall be maintained with the Township Board by the property owner or lessee for the removal of the tower. At the time of application, the Township Board will determine who is responsible to supply the bond. Renewal shall be subject to revision at subsequent permit renewals.

**18.05 Telecommunications Towers Requiring Special Use Permits:**

A. Any communication tower located in AR-1 Agricultural or C-1 Commercial Districts, except for those listed in 20.01.

**18.06 Inventory of Existing Sites:**

The co-location of communications equipment on a communications tower shall be reviewed by the Planning Commission, under Section 20.03 provisions and relevant standards of this section. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of applicant's existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township or within one ( 1 ) mile of the Township border, including specific information about the location, height, and design of each tower or antenna.

**18.07 Franchises:**

Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township have been obtained; they shall file a copy of all required franchises with the Zoning Administrator.

**ARTICLE NINETEEN ( 19 )**

**WIND POWERED TURBINE GENERATOR TOWERS**

19.01 Purpose

The township expects to receive requests to site Wind Powered Turbine Generator Towers in Newfield Township. These guidelines are intended to protect the public health, safety and general welfare while also providing a source of clean renewable energy.

19.02 Definitions

1. Ambient: Ambient is defined as the sound pressure level exceeded of the time or L 90.
2. ANSI: American National Standards Institute.
3. dB(A): The sound pressure level in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.
4. Decibel: The unit of measure used to express the magnitude of sound pressure and sound intensity.
5. IEC: International Electrotechnical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.
6. ISO: International Organization for Standardization. ISO is a network of the national standards institutes of 156 countries.
7. MET Tower: A free standing tower containing anemometer instrumentation to provide wind and meteorological information.
8. Private Use Wind Powered Turbine Generator: An on site system that is intended to primarily serve the needs of the consumer.
9. Rotor: An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting kinetic energy through rotation, directly from the wind.
10. SCADA Tower: A free standing tower containing instrumentation such as anemometers, that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.
11. Shadow Flicker: Altering changes in light intensity caused by the moving blade of a wind turbine energy system casting shadows on the ground and stationary objects, such as a window at a dwelling.
12. Sound Pressure: Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

13. Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
14. Commercial Wind Turbine Energy Systems: A Commercial wind powered turbine generator system is designed and built to provide electricity to the electric utility grid.
15. Wind Turbine Energy System: A wind turbine energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind turbine system to the grid.
16. Wind Site Assessment: An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind turbine energy system.

19.03 Private Wind Powered Turbine Generator (PWPTG) system: PWPTG systems shall be considered a Special Use in all zoning districts. Prior to construction of a PWPTG system, an application for Special Use Permit and site plan shall be filed in accordance with Article 9 of this zoning ordinance and will include applicants' identification, a site plan, documentation that sound pressure level, construction code, tower, and safety requirements have been met, and proof of the applicant's public liability insurance.

5. Property Set-Back: The distance between an On-Site system and the owner's property lines shall be at least 1.5 times the height of the system tower including the top of the blade in its vertical position. Exceptions for neighboring properties are allowed with the written consent of those property owners.
6. Sound Pressure Levers: On site systems shall not exceed 55 dB(A) at the property line closest to the system. Exceptions for neighboring properties are allowed with the written consent of those property owners. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be dB(A) plus 5 dB(A).
7. Construction Codes, Towers, and Interconnection Standards: On site systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On site systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, and the Michigan Tall Structures Act. The systems shall

also comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.

8. **Safety:** All on Site Use Systems shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a system employing a horizontal axis rotor.

**19.4 Wind Site Assessment and monitoring for Private and Commercial WPTG Systems:**

Installation of MET towers for assessment of a WPTG system site shall require an application for Site Plan and Special Use Permit in accordance with Article 9 of this zoning ordinance. The application shall include a copy of the applicant's lease with the land owner granting authority to install the MET tower and requiring the applicant to remove all equipment and restore the site after completion of the assessment and proof of the applicant's public liability insurance. The set back from non-leased property shall be 1.5 times the height of the tower. Guy wires shall be no closer than 10 feet from the property lines and adequately marked and fenced. Leases property can contain more than one parcel and the requirement shall apply to the combined properties. Exception for neighboring properties are allowed with the written consent of those property owners.

**19.5 Commercial Wind Powered Turbine Generator (CWPTG) systems:**

A CWPTG system is designed and built to provide electricity to the electric grid. These systems are considered a Special Land Use, and as such require a site plan and permit in accordance with Article 9 of the zoning ordinance. The application shall include the following:

1. **Insurance:** Proof of the applicant's public liability insurance.
2. **Lease and/or Consent Documents:** Copies of the lease and or written waivers from neighboring property owners.
3. **Sound Pressure Level:** A copy of the modeling and analysis report.
4. **Certifications:** Certification that the applicant has complied with all applicable state and federal laws and regulations.
5. **Visual Impact:** Visual simulations of how the project will look from four viewable angles.
6. **Environmental Impact:** A copy of the Environmental Impact analysis.
7. **Avian and Wildlife Impact:** A copy of the Avian and Wildlife Impact analysis.

8. Shadow Flicker: A copy of the Shadow Flicker analysis.
9. Power Line Locations: Location of buried and overhead on-site and off-site power distribution lines to the township border.
10. Material Safety Data Sheets: Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
11. Decommissioning: A copy of the decommissioning plan.
12. Complaint Resolution: A description of the complaint resolution process.
13. Road Maintenance: A plan to protect and maintain all roads used during construction, repair, and replacement, and a bond in an amount agreeable to the Newfield Township Board and the Oceana County Road Commission for maintenance and repair of such roads.

A commercial WPTG system project shall meet the following standards and requirements:

1. Property Set -Backs: The distance between a WPTG system and the property lines of adjacent non-leased properties including rights of way shall be a minimum of 1.5 times the height of the tower including the top of the blade in its vertical position. Where property is leased on both sides of a private right of way, a WPTG tower may be placed no closer than one rotor radius from the closest edge of the private right of way. Leased property may include more than one piece of property and the requirement shall apply to the combined properties. Set-back shall also apply to occupied dwellings. No set-back is required on lot lines of adjacent leased properties. Exceptions for neighboring property are allowed with the written consent of the affected property owners.
2. Sound Pressure Level: The sound pressure level generated by a WPTG system shall not exceed 55dB(A) measured at the property lines nearest the WPTG system between leased and non-leased properties. The sound pressure level shall not be exceeded for more than 3 minutes in any hour of the day. If the ambient sound pressure level exceeds 55dB(A), the standard shall be dB(A) plus 5 dB(A). Exceptions to these requirements are allowed with the written consent of the affected property owners.

As part of the application and prior to construction, the applicant shall provide modeling and analysis that will confirm that the WPTG system will not exceed the maximum permitted sound pressure levels.

Modeling and analysis shall conform to IEC 61400 and ISO 9613. After



construction of the WPTG system, sound pressure measurements shall be done by a third party qualified professional, according to the procedures in the most current ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a type II sound meter. Documentation of the sound pressure levels shall be provided to the Newfield Township Planning Commission and the Newfield Township Board within 60 days of the operation of the project. This documentation may also be required by the township board for complaint resolution.

3. Construction Codes, Towers and Interconnection Standards: WPTG systems shall comply with all applicable state construction and electrical codes and local building permit requirements. Systems shall comply with FAA requirements and Michigan Tall Structures Act (P.A. 259 of 1959, ML 259.481 et seq. ) The minimum FAA lighting standards shall be exceeded. All tower lighting must be shielded to the extent possible to reduce glare and visibility from the ground. WPTG systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Commission interconnection standards.
4. Safety: All WPTG systems shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site. Emergency contact information shall be kept current with the Newfield Township Zoning Administrator. A minimum 4 sq. ft. sign shall be placed at the road entrance to warn visitors of the potential danger and will contain emergency contact information. The minimum vertical blade clearance from grade shall be 50 feet for a system using a horizontal axis rotor.
5. Visual Impact: All WPTG systems shall use tubular towers and blades that are finished in a single, non-reflective matte color. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have the lettering that exhibits the manufacturers' and/or owners identification.
6. Electromagnetic Interference: No WPTG system shall be constructed



in any location where its proximity to existing broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the WPTG system. No WPTG system shall be constructed in any location within the line of sight of an existing microwave, communications link where operation of the system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

7. Environmental Impact: The applicant shall have a third party qualified professional, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate and mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of and net effects or concerns that will remain after mitigation efforts. The applicant shall comply with Act 451 of 1994 including Part 31 Water Resources Protection, Part 91 Soil Erosion and Sedimentation Control, Part 301 Inland Lakes and streams, and Part 303 Wetlands.
8. Avian and Wildlife Impact: The applicant shall have a third party qualified professional, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernation areas, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.

The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a

study does not need to be conducted. Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC) published standards to prevent avian mortality.

9. Shadow Flicker: The applicant shall conduct an analysis on potential shadow flicker at occupied structures. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.
10. Decommissioning: The applicant shall submit a decommissioning plan. The plan shall include: 1) the anticipated life of the project, 2) the estimated decommissioning costs and salvage value in current dollars, 3) the method of ensuring the funds will be available for decommissioning and restoration, and 4) the anticipated manner in which the project will be decommissioned and the site restored.
11. Complaint Resolution: The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude Newfield Township Officials from acting on the complaint. During construction, the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

**ARTICLE TWENTY (20)**

An ordinance to designate an enforcing agency to discharge the responsibility of the Township of Newfield located in Oceana County, and to designate regulated flood hazard areas under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

The Township of Newfield ordains:

**Section 1. AGENCY DESIGNATED.** Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Zoning Administrator of the Township of Newfield is hereby designated as the enforcing agency to discharge the responsibility of the Township of Newfield under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The Township of Newfield assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this ordinance.

**Section 2. CODE APPENDIX ENFORCED.** Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the Township of Newfield.

**Section 3. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.** The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Oceana County, Michigan" and dated 8/4/2014 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26127C; 0325C and 0350C dated 8/4/2014 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

**Section 4. REPEALS.** All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

**Section 5. PUBLICATION.** This ordinance shall be effective after legal publication and in accordance with the provisions of the Act governing same.

## ARTICLE TWENTY ONE ( 21 )

### ORDINANCE REGULATING THE OPERATION AND MAINTENANCE OF SOLAR ENERGY FACILITIES IN NEWFIELD TOWNSHIP.

#### SECTION 21.01 TITLE

This ordinance may be known and may be cited as "Ordinance Regulating the Operation and Maintenance of Solar Energy Facilities in Newfield Township."

#### SECTION 21.02 PURPOSES AND OBJECTIVES

The purposes and objectives for which this ordinance is passed are as follows:

- A. To preserve the dignity and aesthetic quality of the environment in Newfield Township.
- B. To preserve the physical integrity of land in close proximity to residential areas.
- C. To protect and enhance the economic viability and interests of the citizens and residents of Newfield Township who have made substantial financial investments in homes, businesses, and industry in Newfield Township.
- D. To facilitate the construction, installation, and operation of Solar Energy Facilities (SEFs) in the Township of Newfield in a manner that minimizes the adverse impacts to forestry, agricultural, commercial and residential lands. This ordinance is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

#### SECTION 21.03 DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular; and the word "shall" is mandatory and not discretionary.

**Abandonment:** to give up, discontinue, withdraw from. Any solar energy facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned.

**Building:** Any structure having a roof supported by columns or walls, and designated or

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intended for the shelter, support, enclosure or protection of persons, animals or chattels.

**Decommissioning plan:** A document that details the planned shut down or removal of a solar energy facility from operation or usage.

**Fence:** A continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of dirt, wood, stone, steel, or other metal, or any substance of a similar nature and strength.

**Gate:** A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

**Improved Area:** Area containing solar panels, electrical inverters, storage buildings and access roads.

**Opaque Fence:** A continuous opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of dirt, wood, stone, steel, or other metal, or any substance of a similar nature and strength which will hide the solar energy facility.

**Public Road:** Any road or highway which is now or hereafter designated and maintained by the Michigan Department of Transportation as part of the State Highway System, whether primary or secondary, hard-surfaced or other dependable roads which provide access to residential areas. Setbacks for improved areas shall be measured from the road right of way.

**Residence:** A building used as a dwelling for one or more families or persons.

**Residential Area:** Any area within one quarter 1/4th mile of a solar energy facility having twenty five or more dwellings.

**Solar Energy Facility:** An energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems. This definition shall only include those facilities that sell electricity to be used off site.

**SECTION 21.04 PROHIBITIONS**

It shall be unlawful after the effective date of this Ordinance for any person, firm, or corporation, or other legal entity to operate, maintain or establish in any unincorporated area of Newfield Township a solar energy facility which the site plan has not been approved by the Newfield Township Board. Modifications to an existing solar energy facility that increases the area by more than 20% of the original footprint or changes the solar panel type shall be subject to this ordinance.

**SECTION 21.05 LOCATION**

A. All solar energy facilities must comply with the requirements established in the Newfield Township Zoning Ordinance.

B. All improved areas, including disposal areas, shall be at least 60 feet from a public road and 25 feet from a fence line. In the event that an opaque fence is installed the setback may be reduced to 20 feet.

C. Improved areas shall be at least 50 feet from any residence or church, measured from the principal building in a non-residential area (AR-1 and C-1). Improved areas shall be 100 feet from a residence or church, measured from the property line in a residential area (R-1).

E. All access roads and storage areas shall be established on a 30' minimum easement to a public right of way.

F. All solar energy facilities located in a residential area shall have a minimum landscape buffer of 25 feet. The buffer shall contain evergreen trees or bushes planted no more than 8 feet apart and at least 4' tall at time of planting. The buffer shall obtain a height of 10 feet within 3 growing seasons. The trees or bushes may be trimmed but no lower than a height of 10 feet. A buffer area will not be required between a solar energy facility and an industrial, agriculture, timber or commercial use. A planted buffer will not be required if an opaque fence is installed.

**SECTION 21.06 SECURITY**

A. Solar energy facilities shall be fenced completely as defined in Section Three above. The perimeter fence shall be designed to restrict unauthorized access. If a wire fence is used, vegetation above must be planted along the sides and adjoining a public road.

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B. Each owner, operator or maintainer of a solar energy facility to which this Ordinance applies, and who chooses to use vegetation as defined in Section Three above with wire fence, shall utilize good husbandry techniques with respect to said vegetation, including but not limited to, proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time. Plants or grasses not part of landscaping shall be maintained by the facility operator not to exceed twelve inches in height

**SECTION 21.07 SUPPLEMENTAL REGULATIONS**

A. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.

B. On site power lines between solar panels and inverters shall be placed underground.

C. The design of solar energy facilities buffers shall use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.

D. If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.

E. The applicant must obtain from Oceana County Road Commission a driveway permit.

F. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township.

G. An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.

H. Any other relevant studies, reports, certificates and approval as may be reasonably required by Newfield Township.

I. A description of the proposed technology to include type of solar panel and system, fixed

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mounted versus solar tracking, number of panels, and angles of orientation.

J. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.

**SECTION 21.08 SITE PLAN REQUIRED**

A. Owners or operators of solar energy facilities established after the effective date of this Ordinance shall present three copies of a site plan which conform to the standards of this Ordinance to the Newfield Township Zoning Administrator. The site plan shall include setbacks, panel sizes, and location of property lines, buildings and road right of ways.

B. The Planning Commission shall review the site plan to insure conformity with the requirements of this Ordinance. No new solar energy facility shall be operated until the site plan has been approved by the Newfield Township Planning Commission; provided, however, that if the Planning Commission has not taken action within one hundred twenty (120) days after the first Planning Commission meeting after the submission of the site plan, said site plan will be deemed to be approved.

C. The Zoning Board of Appeals may grant a variance to these requirements based upon good cause shown. Applications for such variance shall be made to the Newfield Township Board.

D. Prior to final inspection proof that a permit issued by the State in accordance with applicable provisions of the General Statutes has been issued shall be provided to the Zoning Administrator.

E. Appeals of a Planning Commission decision shall be to the Newfield Township Board.

F. After initial departmental review, fifteen copies of the site plan in 18" x 24" format must be provided for the Planning Commission meeting.

**SECTION 21:09 ABANDONMENT AND DECOMMISSIONING PLAN**

A. Abandonment: A SEF that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SEF provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Zoning Administrator or his designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to



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development of the SEF.

1. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SEF and restore the site to its condition prior to development of the SEF within three hundred and sixty (360) days of notice by the Zoning Administrator or his designee.

2. If the responsible party (or parties) fails to comply, the Zoning Administrator or his designee may remove the SEF, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SEF and restore the site to a non-hazardous pre-development condition.

B. Decommissioning:

a. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted prior to the issuance of the development permit.

i. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment etc.)

ii. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations.

iii. Restoration of property to condition prior to development of the SEF.

iv. The timeframe for completion of decommissioning activities.

v. Description of any agreement (e.g. lease) with landowner regarding decommissioning.

vi. The party currently responsible for decommissioning.

vii. Plans for updating this decommissioning plan.

**SECTION 21.10 ENFORCEMENT**

A. The enforcement officer shall be the Newfield Township Zoning Administrator or designee. The enforcement officer shall review site plans submitted under Section Seven and make appropriate recommendations to the Township Board. The enforcement officer shall also visit

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the facilities by this ordinance at least once per year and if the facility does not conform to said ordinance shall discuss with the owner and/or operator the steps needed to bring the facility into compliance. If these steps are not taken, the enforcement officer shall notify the owner in writing of the steps that must be taken to bring the facility into compliance. If the owner or operator still fails to bring the facility into compliance with this Ordinance, the enforcement officer, after consultation with the Township Supervisor, shall institute the necessary steps to enforce this ordinance in accordance with the provisions of subsection B of this Section. The enforcement officer shall also assist owners or operators of any solar energy facility in making plans to comply with this Ordinance.

B. This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. It may be enforced by injunction and order of abatement. The Township may apply for a mandatory or prohibitory injunction and order of abatement commanding the violator to correct any unlawful condition upon or cease the unlawful use of property. The Township may request an order of abatement as part of a judgment in the cause any may request the court to close, demolish or remove buildings or other structures or take any other action that is necessary to bring the solar energy facility into compliance with this Ordinance.

This Ordinance may be enforced by any one or more of the remedies authorized herein.

**SECTION 21.11 SEVERABILITY**

If any section or part of this Ordinance should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end the provisions of this Ordinance are severable.

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**NEWFIELD TOWNSHIP  
OCEANA COUNTY, MICHIGAN  
ORDINANCE AUTHORIZING AND PERMITTING  
COMMERCIAL MARIHUANA FACILITIES  
ARTICLE NO. 22**

An ordinance to provide a title for the ordinance; to define words; to allow and/or prohibit marihuana establishments within the boundaries of Newfield Township pursuant to Initiated Law 1 of 2018, MCL 333.27951 et seq., as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

**NEWFIELD TOWNSHIP ORDAINS:**

**Section A: Definitions.** The following words and phrases shall have the following definitions when used in this Ordinance:

1. "Application" means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the "Applicant."
2. "Clerk" means the Newfield Township Clerk or his/her designee.
3. "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act.
4. "MMFLA" means the Medical Marihuana and Facilities Licensing Act.
5. "Commercial Marihuana Facility" or "Facility" means one of the following:
  - a. "Retailer," as that term is defined in the MRTMA or the equivalent definition in the MMFLA, as applicable.
  - b. "Microbusiness: as that term is defined in the MRTMA.
  - c. "Processor," as that term is defined in the MRTMA or the equivalent definition in the MMFLA, as applicable.
  - d. "Secure Transporter," as that term is defined in the MRTMA or the equivalent definition in the MMFLA, as applicable.
  - e. "Grower," as that term is defined in the MRTMA or the equivalent definition in the MMFLA, as applicable.
  - f. "Safety Compliance Facility," as that term is defined in the MRTMA or the equivalent definition in the MMFLA, as applicable.
  - g. "Event Organizer," as that term is defined in the MRTMA.
  - h. "Temporary Event," as that term is defined in the MRTMA.
  - I. "Designated Consumption Establishment," as that term is defined in the MRTMA.
6. "Department" means the State of Michigan Department of Licensing and Regulatory Affairs, or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Marihuana

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Facility.

7. Entity means LLC, Sole Proprietorship, Non-Profit, S Corp, or Partnership.

8. "License" means a current and valid License for a Commercial Marihuana Facility issued by the State of Michigan.

9. "Licensee" means a Person holding a current and valid Michigan License for a Commercial Marihuana Facility.

10. "Marihuana" means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.

11 "Nature Center" means an area of land set aside and managed for conservation of wildlife, flora, fauna or features of geological or other special interest, and to provide opportunities for study, research, or public outreach.

12. "Paraphernalia" means drug paraphernalia as defined in section 7451 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7451, that is or may be used in association with Marihuana.

13. "Park" means an area of public land set aside and maintained for public recreational use and does not include a "nature center" as defined in Section 1(9) of this Ordinance.

14. "Permit" means a current and valid Permit for a Commercial Marihuana Facility issued under this Ordinance, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

15. "Permit Holder" means the Person that holds a current and valid Permit issued under this Ordinance.

16. "Permitted Premises" means the building or buildings within which the Permit Holder will be authorized to conduct the Facility's activities pursuant to the Permit.

17. "Permitted Property" means the real property comprised of a lot, parcel, or other designated unit of real property upon which the Permitted Premises is situated.

18. "Person" means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

19. "Public Place" means any area in which the public is invited or generally permitted in the usual course of business.

20. "Outdoor Cultivation" means cultivation activities that are not conducted within a fully enclosed, permitted structure, constructed of solid materials, accessible only through one or more locking doors. For purposes of this section, cultivation within a greenhouse, hoop-house, glass house, conservatory, hothouse, or other similar structure, and cultivation occurring outside of any enclosed structure, shall be considered outdoor cultivation.

21. "Public Hearing" shall mean a hearing held by the Township Planning Commission in compliance with the Michigan Open Meetings Act to determine the eligibility of an Applicant for a Permit issued under this Ordinance.

22. "Renewal Application" shall mean an Application for the renewal of a Permit.

22. "Zoning Administrator" shall mean the Zoning Administrator of Newfield Township or his / her designee.

### Section B: Permit Required; Number of Permits Available; Eligibility; General Provisions.

1. The Township hereby authorizes the operation of the following types of Commercial Marihuana Facilities, subject to the number of available Permits issued in this Section:

a. Marihuana Growers, Class A

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- b. Marihuana Growers, Class B
- c. Marihuana Growers, Class C
- d. Marihuana Growers, Excess
- e. Marihuana Processors
- f. Marihuana Safety Compliance Facilities
- ~~g.~~ Marihuana Secure Transporters

2. The number of Commercial Marihuana Facility Permits in effect at any time shall not exceed the following maximums within the Township:

- A. Marihuana Grower Permits, Class A: 20
- B. Marihuana Grower Permits, Class B: 20
- C. Marihuana Grower Permits, Class C: 50

Class C commercial marihuana facilities permits shall be limited to 10 facilities in an area bound by Gale Road to the north, Garfield to the south, 200<sup>th</sup> to the east, and 160<sup>th</sup> to the west.

- D.** Marihuana Grower Permits, Excess: Class A: 20 (if separate excess grow permit required by the state).
- E.** Marihuana Processor Permits: 10
- F. Marihuana Safety Compliance Facility Permits: 6
- G. Marihuana Secure Transporter Permits: 6

Approved zoning districts for Commercial Marihuana Permits/Facilities. Grow permits and processor permits may be done in AR-1 or C-1. Compliance facility permits and transporter permits are only allowed in C-1.

Any Permit issued hereunder may be utilized under either or both the MMFLA and the MRTMA. The Township acknowledges and agrees that Class C permits may be utilized by the licensee to obtain an excess grower permit and that in the event the state requires an additional excess grower permit be issued by the Township in respect of said Class C permits, the Township will issue such permit within 30 days of the licensee's request therefor, upon receipt of permit fees for said permits.

The Township Board may review and amend these numbers by resolution annually or as it determines to be advisable.

3. Additional requirements based on license class and zoning district:

- A. Grow Permits in zoning district AR-1 or C-1
  - 1. Minimum lot size of 5 acres.
  - 2. 150 ft. front setback from center of road
  - 3. 100 ft side setbacks

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### 4. 100 ft rear setbacks

4. The setbacks referenced in Subsection 3 above and Subsection 9(B) below shall be calculated by drawing the shortest possible straight line from the lot line to the nearest area or building of the Permitted Property or Premises that contains, or may contain at any time, marijuana, including marijuana plants, marijuana plant waste, and seasonal storage areas of dried or fresh frozen marijuana.

5. Screening of Grow Operations. In addition to those barriers prescribed by state law, a Grower authorized hereunder shall have a minimum 6-foot screening by shrubs, tree line, or landscape berm, at the front and sides of the parcel on which the Permitted Property sits.

6. Minimum of 200 ft from any neighboring residential structure (but not the property line).

7. Parking – 1.5 parking spaces (each space requires 180 sq ft per ordinance) per employee proposed (this would allow some extra parking for state inspectors, etc.)

8. Any lighting visible from a public place or adjacent private residence shall be downcast so as to not interfere with neighboring residence.

9. Quiet times as outlined in current ordinance other than as allowed under “Right to Farm”.

### B. Processing Permits in zoning district AR-1 or C-1

1. Minimum lot size of 4 acres.

2. 150 ft. front setback from center of road

3. 100 ft. side and rear setbacks

4. Minimum 200 ft. distance from any neighboring residences, calculated by drawing the shortest possible straight line between the Permitted Premises / Property and the exterior wall of an occupied residential structure.

5. Screening of operation in addition to that prescribed by state law – minimum 6-foot screening by shrubs, or trees, or landscape berm, on front and sides of parcel. If not, a standalone facility located within a permitted grow facility.

6. Parking – 2 parking spaces per employee as described in permit application. 180 sq ft per parking space per ordinance.

7. Driveway shall be in compliance with OCRC requirements.

8. Quiet times as outlined in current ordinance

### C. Safety Compliance Facility Permits in zoning district C-1

1. Setback requirements as in all C-1 permits

2. Parking – in compliance with local building codes.

3. Transport vehicles must be stored in a secured area, which shall be enclosed by fencing or other physical barrier.

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4. Egress/ingress – in compliance with local building codes.

D. Transporter Permits in zoning district C-1

1. Setback requirements as in all C-1 permits
2. Minimum 1.5 parking spaces (as defined by ordinance, 180 sq ft. each) per employee proposed.
3. Transport vehicles shall be stored in a secured area, which shall be enclosed by fencing or other physical barrier.
4. Parking lot– in compliance with local building and egress zoning codes.
5. Egress/ingress in compliance with OCRC requirements.

4. It shall be unlawful for any person to engage in, or be issued a Permit for, the operation of the following Commercial Marihuana Facilities in the Township:

- a. Marihuana Microbusiness
- b. Marihuana Retailer
- c. Marihuana Event Organizer
- d. Temporary Marihuana Event
- e. Designated Consumption Establishment

5. No person shall operate a Commercial Marihuana Facility at any time for any location within the Township unless a then currently effective Permit for that person at that location has been issued under this Ordinance.

6. Commercial Marihuana Facilities shall operate only as allowed under this Ordinance.

7. The requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state, or local laws, regulations, codes or ordinances.

8. At the time of Application for, or renewal of, a Permit, each Applicant shall pay Application fees to the Township to defray the costs incurred by the Township for inspection, administration, and enforcement of the local regulations regarding Commercial Marihuana Facilities. The application fee shall be \$5,000, of which \$2,500 shall be refunded in the Applicant's Permit Application is denied. The Township Board shall by resolution set all remaining fees in an amount not to exceed any limitations imposed by Michigan law. An Application for a new Permit shall be subject to review by the Planning Commission. Upon review by the Planning Commission, the Planning Commission shall vote to either recommend approval or denial of the Permit. The Township Board of Trustees shall then hold a hearing on the Permit application and vote to approve or deny the Permit. The vote of the Township Board of Trustees shall be considered a final decision. In the event that the number of Applications exceeds the number of available Permits for any given license type, the Township Board of Trustees shall determine the Applicants most likely to comply with this Ordinance and applicable state law at a Public Hearing and shall award such Permits to such Applicants.

9. A Permit and a Renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the Applicant or Permit Holder and shall remain valid only until the December 31 immediately following its approval. A completed Application or Renewal Application must be received by the Zoning Administrator no later than November 30 of each year in order to grant or renew the Permit effective on January 1<sup>st</sup> of the following year.

10. Each year, any pending Applications for renewal or amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered. A Renewal Application where there are no material changes to the Permitted Property and where the Permit Holder maintained strict compliance with this Ordinance and applicable state laws, shall be approved by the Zoning Administrator without Public Hearing. A Renewal Application for an existing Permit where either (i) the Applicant is proposing material changes to the Permitted Property, or (ii) received

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notice from the Township, state or local police, or any State of Michigan administrative body, or a citation, complaint or other administrative action, for a violation of this Ordinance or applicable state law; shall be subject to Public Hearing.

11. It is always the sole and exclusive responsibility of each Permit Holder or Person or Applicant during the Application period and during operation to immediately provide the Township with all material changes in any information submitted on an Application and any other changes that may materially affect any MRTMA or MMFLA State License or its Township Permit. Failure to do so shall result in revocation of said permits.

12. Any permits issued under this ordinance are transferable only upon receipt of an Application in compliance with the requirements of this Ordinance and approval by the Township Board.

13. The original Permit issued under this Ordinance shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by visitors, law enforcement personnel, and administrative authorities.

14. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents, and employees for any state, federal or local fire, emergency, or law enforcement personnel to conduct random and unannounced inspections of the Facility and all articles of property in that Facility at any time to ensure compliance with this Ordinance, any other local regulations, and with the Permit.

15. A Permit Holder may not engage in any other Commercial Marihuana Facility in the Permitted Premises or on the Permitted Property, or in its name at any other location within the Township, without first obtaining a separate Permit.

16. No Permit shall be granted or renewed for a Commercial Marihuana Facility in a residence or in any area of the Township where the predominant land uses, at the time of the permit application, within 0.25 miles of the proposed Commercial Marihuana Facility are residential housing structures upon lots that are an average size of less than two (2) acres.

**Section C. Other Laws and Ordinances.**

In addition to the terms of this Ordinance, any Commercial Marihuana Facility shall comply with all Township Ordinances, including without limitation the Township Zoning Ordinance, and with all other applicable federal, state and local ordinances, laws, codes and regulations. To the extent that the terms of this Ordinance are in conflict with the terms of any other applicable federal, state or local ordinances, laws, codes or regulations, the terms of the more restrictive ordinance, law, code or regulation shall control.

**Section D. Application for and Renewal of Permits.**

1. Application. An Application for a Permit for a Facility shall be submitted to the Zoning Administrator and shall contain the following information:

a. The name, address, phone number and e-mail address of the Applicant and the proposed Commercial Marihuana Facility.

b. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Applicant and the Commercial Marihuana Facility

c. One (1) copy of all the following:

1) All documentation showing the proposed applicant's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Commercial Marihuana Facility.

2) If the proposed applicant is a corporation, non-profit organization, limited liability company or any other entity other



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than a natural person, attach a copy of all company formation documents (including without limitation operating agreements, bylaws, and amendments thereto), a Certificate of Authority, if applicable, and a Certificate of Good Standing or its equivalent from the jurisdiction in which the entity was formed.

3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Facility who are natural persons.

4) Evidence of pre-qualification by State of Michigan Marijuana Regulatory Agency.

5) [intentionally omitted]

6) Non-refundable Application fee.

7) Business and Operations Plan, showing in detail the Commercial Marihuana Facility's proposed plan of operation, including without limitation, the following:

i. A description of the type of Facility proposed and the anticipated or actual number of employees.

ii. A security plan meeting the requirements of Section 5 of this Ordinance, which shall include a general description of the security systems(s), current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.

iii. A description by category of all products to be to be produced at the proposed facility.

iv. A list of Safety Data Sheets for all nutrients, pesticides, and other chemicals proposed for use in the Commercial Marihuana Facility.

v. Applicant will provide information as to expected nuisance odors to be produced and any mitigation techniques employed.

vi. A plan for the disposal of Marihuana and related byproducts that will be used at the Facility.

8) Whether any Applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.

9) Signed and sealed (by Michigan registered architect, surveyor, or professional engineer) site and interior floor plan showing the Permitted Premises and the Permitted Property, with all Permitted Premises to be built in accordance with local building codes.

10) Information regarding any other Commercial Marihuana Facility that the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and the Applicant's involvement in each Facility.

a. Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.

b. Information contained in the Application is exempt from public disclosure to the maximum extent authorized under state law.

2. Renewal Application. The same requirements that apply to all new Applications for a Permit apply to all Renewal Applications, except as specifically provided in this Ordinance. Renewal Applications shall be submitted to and received by the Zoning Administrator not less than sixty (60) days prior to the expiration of the annual Permit, except that an Application requesting a change in the location of the Permitted Premises or Property shall be submitted and received not less than one hundred twenty (120) days prior to the expiration of the Permit. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be deemed to have forfeited the Permit under this Ordinance. The Township will not accept Renewal Applications after the expiration date of the

**TOWNSHIP ZONING ORDINANCE NUMBER 2019-1**

Permit.

3. Approval, Issuance, Denial and Appeal. All inspections, review and processing of the Application shall be completed within sixty (60) days of receipt of a completed Application and all required fees. The Township Board shall approve or deny the Permit within one hundred twenty (120) days of receipt of the completed Application and fees, or within one hundred fifty (150) days if the location of the Permitted Premises or Property is proposed to be amended. The processing time may be extended upon written notice by the Township for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the Permit. Any denial must be in writing and must state the reason(s) for denial. In the event that the denial is for the renewal of an existing Permit submitted in compliance with Section 2 above, the Applicant shall first be entitled to a Public Hearing and given a reasonable opportunity to be heard prior to such denial being final. Any final denial of a Permit may be appealed to a court of competent jurisdiction; provided that, the pendency of an appeal shall not stay or extend the expiration of any Permit. The Township has no obligation to process or approve any incomplete Application, and any times provided under this Ordinance shall not begin to run until the Township receives a complete Application, as determined by the Zoning Administrator. A determination of a complete Application shall not prohibit the Township from requiring supplemental information.

4. Applications for new Permits where no building is yet in existence. Any Applicant for a Commercial Marihuana Facility Permit whose building is not yet in existence at the time of the Township’s initial approval shall have 18 months immediately following the date of the Township’s initial approval to complete construction of at least one building on the Permitted Property, in accordance with applicable zoning ordinances, building codes, and any other applicable state or local laws, rules or regulations, and to commence business operations.

5. Duty to Supplement.

a. If, at any time before or after a Permit is issued pursuant to this Ordinance, if any information required in the Permit Application, the MRTMA, or any rule or regulation promulgated thereunder, changes in any way from that which is stated in the Application, (other than changes after the date of the Permit Application in the MRTMA, the MMFLA, or any rule or regulation promulgated thereunder, that necessitate a change in such information), the Applicant or Licensee shall supplement such information in writing within ten business (10) days from the date upon which such change occurs.

b. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, any owner, principal officer, director, manager, or employee within ten business (10) days of the event.

c. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marijuana, the MMMA, the MMFLA, the MRTMA, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marijuana by the Applicant, any owner, principal officer, director, manager, or employee within (10) ten business days of the event.

Section E. Operational Requirements – Commercial Marihuana Facilities.

A Commercial Marihuana Facility issued a Permit under this Ordinance and operating in the Township shall at all times comply with the following operational requirements, which the Township Board may review and amend from time to time as it determines reasonable.

1. Scope of Operation. Commercial Marihuana Facilities shall comply with all respective applicable codes of the local zoning, building, and health departments. The Facility must hold a valid local Permit and shall have a State Commercial Marihuana Facility License for the type of Commercial Marihuana Facility intended to be carried out on the Permitted Property in order to conduct licensed operations on the Permitted Property / Premises.

2. Required Documentation. Each Commercial Marihuana Facility shall be operated from the Permitted Premises on and/or the Permitted Property. No Commercial Marihuana Facility shall be permitted to operate from a moveable, mobile or transitory location, except for a Permitted and Licensed Secure Transporter when engaged in the lawful transport of Marihuana. or a licensee operating motor and other vehicles within the confines of the Permitted Property. No person under the age of eighteen (18) shall be allowed to enter unto the Permitted Premises without a parent or legal guardian. No person under the age of twenty-one (21) shall be allowed to enter unto the Permitted Premises with respect to any Commercial Marihuana Facility subject to the MRTMA.

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3. Security. Permit Holders shall at all times maintain a security system that meets State law requirements, and shall also include the following:
- a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises or property, in each instance as required under the MMFLA and MRTMA, as applicable.
  - b. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week.
  - c. All Marihuana in whatever form stored at the Permitted Premises and/or Permitted Property shall be kept in a secure manner and shall not be visible from outside the Permitted Premises and/or the Permitted Property, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Permitted Premises and/or the Permitted Property.
  - d. All security recordings and documentation shall be preserved for at least thirty (30) days by the Permit Holder and made available to any law enforcement agency upon request for inspection.
4. Required Spacing. No Commercial Marihuana Facility shall be located within five hundred (500) feet from any educational institution or school, college or university, public or private park, or childcare facility licensed by the State of Michigan with the minimum distance between uses measured by the shortest possible straight line between the boundary line of the applicable parcels.
5. Amount of Marihuana. The number of Marihuana “Plants”, as that term is defined by applicable regulations promulgated under the MMFLA and / or MRTMA, on the Permitted Property and under the control of the Permit Holder of the Facility shall not exceed that amount permitted by the applicable state License or the Township’s Permit, it being acknowledged that the number of plants allowed to be grown under an Excess Grow license is determined by the Marijuana Regulatory Agency.
6. [intentionally omitted]
7. Sign Restrictions. No pictures, photographs, drawings or other depictions of Marihuana or Marihuana Paraphernalia shall appear on the outside of any Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. The words “Marihuana,” “cannabis” and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property.
8. Use of Marihuana. The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Premises is prohibited.
9. Grow operations may be undertaken either indoors or outdoors. Reasonable measures shall be taken to minimize impacts on adjacent properties. Such measures may include screening by plants or fencing of outdoor cultivation, and ventilation and filtration of indoor cultivation facilities. Similarly, downcast lighting will be required wherever feasible when lighting is utilized.
10. Unpermitted Growing. A Patient or Caregiver under the MMMA shall not grow his or her own Marihuana on the Permitted Property of a Commercial Marihuana Facility.
11. Distribution. No person operating a Facility shall provide or otherwise transfer Marihuana except as authorized by the MRTMA or MMFLA, as applicable.
12. Permits. All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.
13. Waste Disposal. The permit holder, the owner and the operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.
14. Transportation. Marihuana may be transported outside of the Permitted Property by a Secure Transporter, whether licensed within the Township under this Ordinance or elsewhere, and to effectuate its purpose, only:

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- a. By Persons who are otherwise authorized by state law to possess Marihuana.
- b. In a manner consistent with all applicable state laws and rules, as amended.
- c. In a secure manner designed to prevent the loss of the Marihuana, consistent with all applicable state laws and rules, as amended.
- d. No vehicle used for the transportation or delivery of Marihuana under this Ordinance shall have for markings the words “Marihuana”, “cannabis” or any similar words; pictures or other renderings of the Marihuana plant; advertisements for Marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting Marihuana.
- e. No vehicle may be used for the ongoing or continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.

15. Additional Conditions. The Township Board may impose such reasonable terms and conditions on a Commercial Marihuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

**Section F. Severability.**

The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

**Section G. Effective Date.**

This Ordinance shall take effect thirty (30) days following publication or posting after final adoption by the Township Board.

**ARTICLE TWENTY THREE (23)**

**PENALTIES**

22.01 Township Recovery of Costs: Any person who shall violate the provisions of this Zoning Ordinance, in any particular, or who shall fail to comply with any of the regulatory measures or conditions of the Zoning Board of Appeals adopted pursuant hereto, shall, upon conviction, be liable to the Township for the recovery of all of its costs that may be assessed from the person who violated the Zoning Ordinance as per authority of that as is found in MSA 5.2963 and pursuant to Newfield Township’s Public Safety Ordinance.

Said person shall also be liable for the following schedule of fees:

<b><u>Violation Type</u></b>	<b><u>Fee</u></b>
Failure to Obtain a Zoning Permit for Construction 1 <sup>st</sup> Violation	\$50
Failure to Obtain a Zoning Permit for Construction 2 <sup>nd</sup> Violation	\$100
Failure to Obtain a Zoning Permit for Construction 3 <sup>rd</sup> and Subsequent Violations	\$200
Failure to Obtain a Zoning Permit for Demolition (All)	\$25
Illegal/Unpermitted Campground	\$100
Illegal Unpermitted Junkyard	\$200
Illegal/Unpermitted Waste Disposal Site	\$500
Commercial Operation in R-1 or AR-1 Zoning Districts	\$100

**ARTICLE TWENTY FOUR (24)**

**SEVERABILITY AND CAPTIONS**

Section 1. Severability and Captions:

This ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 2. Repeal:

All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any of the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

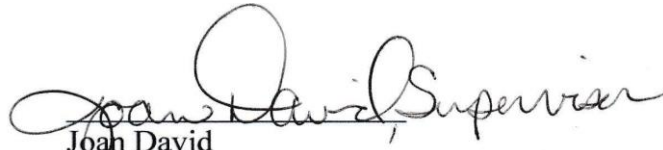
Section 3. Administrative Liability:

No officer, agent, or employee of the Township or member of the Township Board shall render himself or herself personally liable for any damage, which may occur to any person or entity as the result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to the Ordinance.

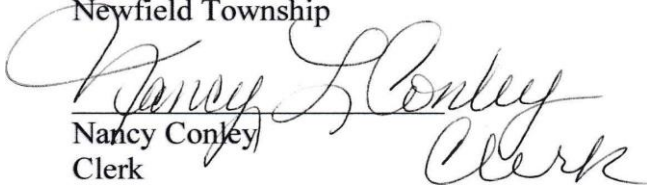
TOWNSHIP ZONING ORDINANCE NUMBER 2019-1

Effective Date:

This Ordinance was approved and adopted by the Township Board on October 15, 2019 after introduction and a first reading on October 15, 2019, and publication after such first reading as required by Michigan Act 246 of 1945, as amended. This Zoning Ordinance shall be effective on November 15, 2019.

A handwritten signature in cursive script that reads "Joan David, Supervisor".

Joan David  
Supervisor  
Newfield Township

A handwritten signature in cursive script that reads "Nancy Conley" followed by the word "Clerk" written in a larger, more stylized cursive font.


Nancy Conley  
Clerk

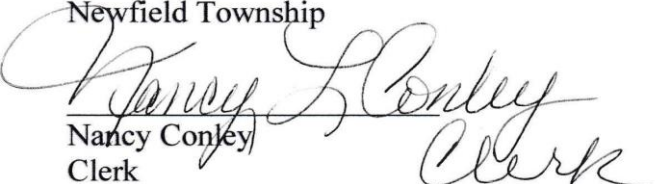
CERTIFICATE

We, Joan David and Nancy Conley the Supervisor and Clerk, respectively, for the Township of Newfield County, Michigan, do hereby certify that the forgoing Newfield Township Zoning Ordinance was adopted at a meeting of the Newfield Township Board held on October 15, 2019. The following members of the Township Board on October 15, 2019, were present at that meeting: Joan David, Supervisor; Nancy Conley, Clerk; Tami Ballantyne, Treasurer; Richard Roberson and John Clark Trustees.

The Zoning Ordinance was adopted by the Township Board with members, Joan David, Nancy Conley, Tami Ballantyne, Richard Roberson and John Clark of the Board voting in favor.

The Zoning Ordinance was published in The Oceana Herald on Thursday October 31, 2019.

  
Joan David  
Supervisor  
Newfield Township

  
Nancy Conley  
Clerk