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**TOWNSHIP OF LEROY  
OSCEOLA COUNTY, MICHIGAN  
ORDINANCE NO. 2007-\_\_\_\_\_**

**CHAPTER 10**

**10.000 LEROY TOWNSHIP ZONING ORDINANCE**

**ARTICLE I**

**10.101 TITLE**

This ordinance shall be known as the LeRoy Township Zoning Ordinance and is enacted pursuant to the authority contained in the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et seq, as amended (hereinafter referred to as the "Zoning Act",) for the establishment of zoning districts in the unincorporated portions of LeRoy Township, within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, soil and water supply conservation, environmental protection and additional uses of land may be encouraged, regulated or prohibited; for the adoption for such districts of provisions designating or limiting the location, height, number of stories, and size of dwellings, buildings and structures, including tents, recreational vehicles and trailer coaches which may hereafter be erected, altered, or utilized; for the regulation of the area of yards, courts, and other open spaces and the sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures, including tents, recreational vehicles and trailer coaches; for the designation of the maximum number of families which may be housed in buildings, dwellings and structures, including tents, recreational vehicles and trailer coaches; to establish a Zoning Board of Appeals, to grant authority to said board in addition to that expressly provided in said Public Act 110; to provide standards to guide actions and decisions of said board; to provide for the enforcement of the provisions of said ordinance and penalties and other relief for the violation of said ordinance; and to provide for the amendment thereof and the repeal of all ordinances or parts of ordinances in conflict therewith.

**10.102 PREAMBLE**

In accordance with the authority and intent of the Zoning Act, the Township desires to provide for its orderly development which is essential to the well-being of the community and which will place no undue burden upon developers, industry, commerce, residents, food producers, the natural resources, or energy conservation. The Township further desires to assure adequate sites for industry, commerce, food production, recreation, and residences; to provide for the free movement of vehicles upon the streets and highways of the Township; to protect industry, commerce, food producers, natural resources, energy consumption and residences against incongruous and incompatible uses of land; to promote the proper use of land and natural resources for the economic well-being of the Township as a whole; to assure adequate space for the parking of vehicles of customers and employees using commercial, retail and industrial areas; to assure that all uses of land and buildings within the Township are so related as to provide for economy in government and mutual support; and to promote and protect the public health, safety, comfort, convenience and general welfare of all persons and property owners within the Township.

The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning operation of this Ordinance shall be done pursuant to the Zoning Act.

**10.103 ENACTING CLAUSE**

The Township of LeRoy, County of Osceola, State of Michigan ordains:

**ARTICLE II**

**10.201 DEFINITIONS**

When not inconsistent with the context, words used in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word “shall” is always mandatory and not merely

directory. The word building includes the word “structure” and vice-versa. Terms not herein defined shall have the meanings customarily assigned to them. The following terms shall have the following meanings when used in the within Ordinance:

**01 ACCESSORY BUILDING**

Shall mean a building or a portion of a building subordinate to and on the same lot as a main building and occupied by or devoted exclusively to an accessory use, including, but not limited to, a private garage.

**02 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.

**02.1 AGRICULTURAL LAND**

Shall mean substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

**03 APARTMENT HOUSE**

A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service, or utilities in common.

**04 BASEMENT**

That portion of a building below the first floor joists, at least half of whose clear ceiling height is above the level of the adjacent ground.

**05 BOARDING HOUSE**

A dwelling in which lodging or meals, or both, are furnished to three or more guests for compensation.

**06 BUILDING**

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

**07 CABIN**

A non-commercial building which is a rigid, fixed and permanent structure with a roof and its intended purpose is to shelter people. A cabin shall have not less than 320 square feet and not more than 720 square feet and shall be used to shelter people for not more than an aggregate of 240 days in a calendar year. A building meeting these requirements may or may not have a permanent potable and waste water system. It must have health department approved private waste water and potable water systems. A building meeting these requirements may have a heating source, including a wood heating source.

**08 CAMPGROUND**

A parcel or tract of land in which sites are offered for use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five or more tents or vehicular type structures designed for recreational camping or travel use.

**08.1 CLUSTER OR MULTIPLE USE DEVELOPMENT**

See “Planned Unit Development.”

**08.2 CONSERVATION EASEMENT**

Shall mean that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

**08.3 DEVELOPMENT RIGHTS**

Shall mean the rights to develop land to the maximum intensity of development authorized by law.

**09 DWELLING, SINGLE-FAMILY**

A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

- (a) It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
- (b) In all zoning districts it has a minimum width across any front, side or rear elevation of 24 feet. In all zoning districts it complies in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, MCL 125.1501 et seq, as amended, or any building code or Uniform Construction Code hereafter adopted by the Township, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the State Construction Code or other adopted code, then and in that event such federal or state standard or regulation shall apply.
- (c) It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code as

promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended, or any building code or Uniform Construction Code hereafter adopted by the Township, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.

- (d) In the event that the dwelling is a mobile home or modular, as defined herein, such dwelling:
  - 1. Shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, and shall have a perimeter wall as required above.
  - 2. Shall have no exposed undercarriage or chassis.
  - 3. Shall be installed with the wheels removed.
  - 4. Shall have either aluminum or aggregate block skirting in place within 180 days of placement on a lot or issuance of an occupancy permit, whichever comes first.
- (e) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- (f) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- (g) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home or modular, all construction and all plumbing, electrical apparatus and insulation within and connected

to said mobile home or modular shall be of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

- (h) All construction required herein shall be commenced only after a Township Zoning Permit and a County building permit have been obtained in accordance with the provisions and requirements of this Ordinance, the Michigan State Construction Code as amended, or any building code or Uniform Construction Code hereafter adopted by the Township.

**10 DWELLING - TWO FAMILY**

A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in subsection h, above.

**11 DWELLING - MULTIPLE FAMILY**

A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in subsection h, above.

**12 ESSENTIAL SERVICES**

The term Essential Services means the erection, construction, alteration or maintenance by public utilities or township departments or commissions of underground or overhead gas, electrical, steam or water transmissions or

distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein), reasonably necessary for the furnishing of adequate service by such public utilities or township departments or commissions or for the public health or safety or general welfare.

**13 FAMILY**

An individual or a group of two or more persons related by blood, marriage or adoption including foster children, together with not more than two additional people not related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

**13.1 FAMILY DAY-CARE HOME**

Shall mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group day-care home.

**13.2 GREENWAY**

Shall mean a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

**13.3 GROUP DAY-CARE HOME**

See Family day-care home.



**14 HOME OCCUPATIONS**

Occupations engaged in within a dwelling by resident or its resident(s) and complying with the following conditions and limitations:

- (a) the dwelling has no exterior evidence, other than a permitted sign as provided by this Ordinance, to indicate that the same is being utilized for any purpose other than that of a dwelling,
- (b) 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. Noise, smoke, odor, electrical disturbance of the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted,
- (c) any such home occupation shall be subject to annual inspection by the Township Zoning Administrator and may be terminated by order of such official whenever the same fails to comply with the Zoning Ordinance,
- (d) the Planning Commission shall have authority to determine whether or not a proposed use complies with the Zoning Ordinance and is within the spirit of the same to ensure the compatibility of any use with the character of the zoning classification in which the same is located and that the health, safety, and general welfare of the neighborhood will not thereby be impaired.

**15 HUNTING PRESERVE**

Land with enclosures, cages or pens requiring a state issued permit to hold animals in captivity, upon which wildlife is confined for hunting purposes.

Specifications for the enclosures, cages or pens utilized shall be governed by the rules and regulations of the state permitting agency.

**15.1 IMPROVEMENTS**

Shall mean those features and actions associated with a project that are considered necessary by the body or official granting zoning approval, to protect natural resources or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

**15.2 INTENSITY OF DEVELOPMENT**

Shall mean the height, bulk, area, density, setback, use, and other similar characteristics of development.

**16 JUNKYARD**

Any land or building used for commercial storage and or sale of paper, rags, scrap metals, other scrap or discarded materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not including a dump.

**16.1 LEGISLATIVE BODY**

Shall mean the board of trustees of LeRoy Township.

**16.2 LOCAL UNIT OF GOVERNMENT**

Shall mean a county, township, city or village.

**17 LOT**

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

**18 LOT AREA**

The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

**19 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 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 above.

**20 LOT, DEPTH**

The mean horizontal distance from the front street line to the rear lot line.

**21 LOT, INTERIOR**

A lot other than a corner lot.

**22 LOT, FRONT LINE**

That side of the lot abutting upon a public street right-of-way or abutting upon a lake; in the case of a corner lot, either street right-of-way line may be

considered the front line of the lot if it contains the minimum required frontage.

**23 LOT, REAR LINE**

Ordinarily that lot line which is opposite and most distant from the front lot line as defined in this Ordinance. In the case of an irregular-shaped lot, a line 10 feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required rear yard spacing.

**24 LOT, SIDE LINE**

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

**25 LOT SIZE, MINIMUM**

All lots in the R1 and R2 districts must be a minimum of two (2) acres in size. Cluster development may be allowed as a special exemption (specially permitted) use in the R1 and R2 zones. For example, five houses could be grouped together on a ten acre parcel provided the entire ten acres is restricted in common ownership or otherwise restricted so that no additional dwellings beyond the five allowed dwellings could be built upon that ten acre parcel.

**26 LOT WIDTH**

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

**27 MOBILE HOME or MODULAR**

A structure, transportable in 1 or more sections, which is built on a 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. Mobile home does not include a recreational vehicle.

**28 MOBILE HOME PARK**

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

**29 MOBILE HOME SITE OR SPACE**

A portion of the mobile home park set aside and clearly marked and designated for occupancy and accommodation of an individual mobile home or trailer coach.

**30 NON-CONFORMING USES OR STRUCTURES**

A building or structure or the use of a building, structure or land lawfully existing at the time this ordinance became effective, but which does not conform with the present use regulations of the district in which it is located.

**31 NURSING OR CONVALESCENT HOME**

A nursing care facility, including a county medical care facility, but excluding a hospital, that provides organized nursing care and medical treatment to 7 or

more unrelated individuals suffering or recovering from illness, injury or infirmity.

**32 OFFICE**

A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenographic) equipment for current use in the office business, and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or concerned with the performance of a personal service which causes or creates no external disturbance, nuisance, or annoyance beyond the confines of said rooms or building.

**32.1 OTHER ELIGIBLE LAND**

Shall mean land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

**33 PERSON**

An individual, partnership, cooperative, association, corporation, trust, personal representative, receiver, trustee, assignee or any other legal entity.

**33.1 PLANNED UNIT DEVELOPMENT**

Shall mean a form of land development comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and non- residential uses. Also referred to in this Ordinance as Cluster or Multiple Use Development.

**33.2 POPULATION**

Shall mean the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

**34 RECREATIONAL VEHICLE**

A vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. This definition includes travel trailers, camping trailers, motor homes and truck campers.

**35 SETBACK**

The minimum horizontal distance a building or structure, or any portion thereof, is required to be located from the boundaries of the lot or parcel of land upon which the same is situated.

**35.1 SITE PLAN**

Shall include those documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

**35.2 STATE LICENSED RESIDENTIAL FACILITY**

Shall mean a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and

provides residential services for 6 or fewer persons under 24-hour supervision or care.

**36 STRUCTURE**

That which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner, whether or not used as a dwelling, including but not limited to site built houses, garages, utility buildings, modular or manufactured houses and mobile homes.

**36.1 UNDEVELOPED STATE**

Shall mean a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include golf courses but may include recreational trails, picnic areas, children's play areas, greenways, or linear parks. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

**37 WILDLIFE RESERVE**

Land with enclosures, cages or pens requiring a state issued permit to hold animals in captivity, upon which wildlife is confined for other than hunting purposes. Specifications for the enclosures, cages or pens utilized shall be governed by the rules and regulations of the state permitting agency.

**38 ZONES OR ZONING DISTRICT BOUNDARIES**

The boundary lines separating distinct zoning districts as set forth in this Ordinance and the accompanying Official Zoning Map of LeRoy Township. 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 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 indicated as approximately following 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 25 feet distant therefrom, such lot lines shall be such boundaries.
- (d) If unsubdivided 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 ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
- (e) If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

**39 ZONING COMMISSION**

Shall mean a zoning commission as described in Article III, section 3301 - 3308 of the Zoning Act.

**40 ZONING JURISDICTION**

Shall refer to the area encompassed by the legal boundaries of the Township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to township zoning.

**ARTICLE III**

**10.300 ZONING DISTRICTS**

**10.301 DIVISION OF TOWNSHIP**

The Township of LeRoy shall be divided into zoning districts, as described, within which districts no buildings or premises shall be used and no building shall be erected, altered, or located except for the uses and purposes set forth as “permitted uses” under each such zoning district classification; subject, however, to such prior approval as is required to be obtained from the Planning Commission for such exemption uses.

**10.302 “R1” AGRICULTURAL/RURAL RESIDENTIAL DISTRICT**

**01 STATEMENT OF PURPOSE**

The R1 district represents the primary present land use of the Township and consists of those open areas of the Township where farming, dairying, forestry operations and other such low-density rural-type activities exist and should be preserved or encouraged. Publicly owned land that becomes privately owned land, large vacant areas, fallow land and wooded areas may also be included. Although the demand for other uses in these districts may ultimately outweigh their use as zoned, any such zoning changes should be made cautiously with the realization that adequate food supply is essential to the health and welfare of the Township, County, State and Nation.

**02 MINIMUM LOT SIZE - PERMITTED USES**

All lots in the R1 district must be a minimum of two (2) acres in size, and subject to all other regulations and conditions as set forth in these ordinances.

The following uses are permitted as of right in the R1 district:

- (a) Farm dwellings, barns, stables, silos, forestry operations, housing for farm labor, and accessory buildings, structures and uses customarily incidental to any of the foregoing permitted uses.
- (b) Agricultural, horticultural, vitacultural, dairy farming, cattle raising, poultry raising, livestock raising, timber and pulp harvesting, farm forestry and other similar bona fide farming or agricultural enterprises; excluding, however, rendering plants, commercial fertilizer production or garbage feeding or disposal activities.
- (c) Greenhouses, nurseries, florist shops, garden supply shops.
- (d) Home occupations as defined in the within ordinance, including instruction in fine arts or crafts.
- (e) Essential services.
- (f) State Licensed Residential Care Facilities, situated on not less than two (2) acres.
- (g) Cabins
- (h) Permitted bed and breakfast.

**03 SPECIAL EXEMPTION USES (Specially Permitted Uses)**

The following uses may be allowed in the R1 district by special use permit only:

- (a) Public utility and service buildings.
- (b) Small business providing retail sales and/or services to the public at large; excluding, however, all manufacturing.
- (c) Nursing or convalescent homes,

- (d) Wildlife preserves,
- (e) Hunting preserves,
- (f) Animal feedlots and piggeries,
- (g) A complex or development of a multiple number of permitted or designated “special exemption” uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Zoning Commission under the procedure and standards specified in the ordinance for special exemption uses.
- (h) Earth removal, quarrying, gravel processing, mining and related mineral extraction businesses, subject to applicable state laws and local regulations or ordinances.
- (i) Campgrounds.
- (j) Cemeteries.
- (k) Private landing fields.
- (l) Churches and parish houses, public schools and educational institutions and other municipal buildings, structures or uses.
- (m) Community buildings, parks, public recreational areas and golf courses.
- (n) Cluster development may be allowed as a special exemption (specially permitted) use in the R1 and R2 zones. For example, five houses could be grouped together on a ten acre parcel provided the entire ten acres is restricted in common ownership or otherwise restricted so that no additional dwellings beyond the five allowed dwellings could be built upon that ten acre parcel
- (o) Buildings put up prior to construction of a dwelling, i.e., storage, auxiliary, pole, pre-constructed and ancillary.

**10.303 “R2” – SINGLE/MULTIPLE FAMILY RESIDENTIAL DISTRICT**

**01 STATEMENT OF PURPOSE**

This district classification is designed to be a restrictive district to encourage an environment of predominantly low-density single-family and multiple family dwellings, together with a minimum of other residentially related facilities and activities primarily of service to the residents in the area. This district is further designed to establish areas in which each dwelling erected is located on an individual lot or premises adequate in size and shape to provide safe water and sewage disposal facilities, minimize the spread of fire, and set back from public thoroughfares to facilitate safe exit from and entrance to the premises.

**02 PERMITTED USES**

All lots in the R2 district must be a minimum of two (2) acres in size. Subject to such regulations and conditions as are set forth in this ordinance, the following uses are permitted as of right in the R2 district:

- (a) Private single-family dwellings, low density multiple family dwellings and State Licensed Residential Care Facilities situated upon not less than 2 acres of land, which shall provide not less than seven hundred twenty (720) square feet of floor area, exclusive of attached garage, carport, breezeway or porch.
- (b) Home occupations, including instruction in fine arts or crafts.
- (c) Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot or parcel of land and not involving the conduct of a business.

- (d) Buildings put up prior to construction of a dwelling, i.e., storage, auxiliary, pole, pre-constructed and ancillary.

**03 SPECIAL EXEMPTION USES (Specially Permitted Uses)**

The following uses may be allowed in the R2 Single/Multiple Family Residential district by special use permit only:

- (a) High density multiple family dwellings, apartment houses and condominiums, except such dwellings shall not be situated upon less than 2 acres of land and shall provide for the following:
  - 1. Not less than 350 square feet of floor area per family for any efficiency unit;
  - 2. Not less than 500 square feet of floor area per family for any one bedroom unit;
  - 3. Not less than 720 square feet of floor area per family or anything in excess of one bedroom, exclusive of attached garage, carport, breezeway or porch.
- (b) Mobile Home parks, together with accessory buildings and uses customarily incident thereto, including a residence for the mobile home park owner or operator and his family, but excluding any retail sales of mobile homes unless the same are located upon a developed mobile home site; provided however, that all mobile home parks shall comply with the requirements imposed by Michigan Public Act 96 of 1987, MCL 125.2301 et seq, and any and all amendments thereto and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health.

- (c) Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised or grown upon the premises.
- (d) Essential public utility service buildings, or gas or electric regulator stations or buildings.
- (e) Schools, libraries, and other municipal structures and uses.
- (f) Publicly owned golf courses, parks, and other municipally owned or operated public recreational facilities.
- (g) Churches.
- (h) Hospitals.
- (i) Nursing and convalescent homes, subject to the following conditions:
  - 1. All buildings and construction shall meet or exceed applicable local, county or state building codes.
  - 2. All buildings and construction shall meet or exceed local, county or state fire inspection approval.
  - 3. All buildings and construction shall meet or exceed local, county or state health inspection approval.
  - 4. All buildings and construction shall contain common service areas including, but not limited to, central dining rooms, central lounges and workshops.
  - 5. There shall be provided for each occupant a minimum of 120 square feet of living space
  - 6. There shall be provided on the site, not less than fifteen hundred (1,500) square feet of open space for each bed in the home. The fifteen hundred (1,500) square feet of land area shall provide for landscape setting, off-street parking, service

drives, loading space, yard requirement and accessory uses, but shall not include the area covered by main or accessory buildings.

(j) Boarding and lodging houses containing not more than 6 separate units, subject to the following conditions:

1. Each unit shall contain no less than 150 square feet per occupant.
2. All buildings and construction shall meet or exceed applicable local, county or state building codes.
3. All buildings and construction shall meet or exceed local, county or state fire inspection approval.
4. All buildings and construction shall meet or exceed local, county or state health inspection approval.

(k) Hotels, motels, or other transient-type residential buildings, subject to:

1. Each unit shall contain not less than 250 square feet of floor area.
2. All buildings and construction shall meet or exceed applicable local, county or state building codes.
3. All buildings and construction shall meet or exceed local, county or state fire inspection approval.
4. All buildings and construction shall meet or exceed local, county or state health inspection approval.
5. Access for ingress and egress to each hotel, motel or other facility shall be provided so as not to conflict with adjacent business accesses or adversely affect traffic flow on adjacent thoroughfares.



6. Establishments for the retail sales of meals, provided that such establishments are housed in facilities which are residential in appearance.
  - (l) Rental cabins with light housekeeping facilities, providing not less than 320 square feet of floor area per unit.
  - (m) Mobile homes and modulares, subject to the limitations of this ordinance.
  - (n) A complex or development of a multiple number of “permitted” or designated “special exemption” uses which do not comply with all conditions and limitations pertinent thereto, but which will comply with the spirit of this ordinance with the approval of the Zoning Commission under the procedure and standards specified in the ordinance for special exemption uses.
  - (o) Cluster development may be allowed as special exemption (specially permitted) use in the R1 and R2 zones. For example, five houses could be grouped together on a ten acre parcel provided the entire ten acres is restricted in common ownership or otherwise restricted so that no additional dwellings beyond the five allowed dwellings could be built upon that ten acre parcel.

**10.304 “C-I” COMMERCIAL & LIGHT INDUSTRIAL DISTRICT**

**01 STATEMENT OF PURPOSE**

This district is designed to provide areas for retail and wholesale sales, commercial services, and other uses catering to the general public as well as light industry and general business.

**02 PERMITTED USES**

- (a) Retail and wholesale sales businesses.
- (b) Offices.

- (c) Banks, building and loan associations, and other lending institutions.
- (d) Funeral parlors.
- (e) Restaurants.
- (f) Essential public utility services.
- (g) Indoor theaters.
- (h) Hotels, motels, and apartment houses.
- (i) Personal service businesses including cleaning and laundry services, barber shops, beauty parlors, appliance repair shops, etc.
- (j) Churches.
- (k) Gasoline stations.
- (l) Automobile repair garages.
- (m) Outdoor automobile sales
- (n) Indoor commercial recreation facilities.
- (o) Schools.
- (p) Light Industrial facilities, manufacturing, assembling and fabricating businesses and commercial activities which cause a minimum of adverse effect beyond the boundaries of the site upon which they are located. Subject to the following conditions:
  - 1. Facilities shall not emanate noise, smoke, odors, dust, dirt, noxious gases, glare, heat, vibration or psychological ill effects which would be a nuisance or annoyance to owners or occupants of surrounding premises;
  - 2. Shall be wholly contained within fully enclosed buildings except for the following permissible outdoor activities:
    - a. Outdoor storage in the rear yard area which must not exceed 20% of the square foot area of the principal building upon the premises and which must be

screened from adjoining premises of a higher use district classification and from public streets by a solid fence, wall, or natural screening adequate for the purpose.

- b. Delivery operations to and from said business.
- c. Such other outdoor storage or activities as may be allowed under a variance granted by the Zoning Board of Appeals which may be granted by said Board where, in its discretion, the same would not be a nuisance or annoyance to adjoining property owners and would be in accordance with the purpose of this zoning classification to create a zoning district for activities which produce a minimum of adverse effect on adjoining premises and are compatible with one another and do not require large land areas for isolation or protection of adjoining premises or activities.

- (q) Accessory buildings and uses customarily incident to any of the foregoing, not including any manufacturing or treatment activities.
- (r) All uses permitted of right in the R1 and R2 districts

**03 SPECIAL EXEMPTION USES (Specially Permitted Uses)**

The following uses may be allowed in the Commercial/Industrial district by special use permit only:

- (a) Other industrial facilities.
- (b) Motor freight warehousing businesses.
- (c) Propane, gasoline, and petroleum storage.
- (d) Ready-mix concrete and asphalt plants.

- (e) Lumber yards.
- (f) Mining operations and incidental gravel processing, subject to additional restrictions of this ordinance.
- (g) Auto body and auto paint shops.
- (h) Junk yards or salvage yards.
- (i) Any uses allowed as permitted or special uses in any zoning district classification set forth in this ordinance.
- (j) A complex or development of a multiple number of “permitted” or designated “special exemption” uses which do not comply with all conditions and limitations pertinent thereto, but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exemption uses.

**10.304        RESERVED**

**10305        RESERVED**

## **ARTICLE IV**

**10.400        SPECIAL EXEMPTIONS**

**10.401        SPECIAL EXEMPTION STANDARDS**

In order to make this Ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the township, the Planning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses designated as Special Exemption Uses within the various zoning classifications set forth in the ordinance. Such Special Exemption Uses have been selected because of the unique characteristic of the use which, in the particular zone

involved, under certain physical circumstances and without proper controls and limitations, might cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto. With this in mind, such Special Exemption Uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Planning Commission, in its absolute discretion, is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefore, and imposed by said Commission, would be compatible with the other uses expressly permitted within said district, with the natural environment and the capacities of public services and facilities affected by the land use; would not, in any manner, be detrimental or injurious to the use or development of adjacent properties to the occupants thereof or to the general neighborhood; would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; and that the standards required by the Board for the allowance of such Special Exemption Use can and will, in its judgment, be met at all times by the applicant. The burden of proof of facts which might establish a right to a Special Exemption Use Permit under the foregoing standards shall be upon the applicant.

#### **10.402 SPECIAL EXEMPTION PROCEDURE**

Applications for Special Exemption Uses and Issuance of Permits therefore, shall be as follows:

##### **01 FILING APPLICATIONS**

All applications for Special Exemption Use Permits shall be filed with the Township Clerk and shall include all pertinent plans, specifications, and other data upon which the applicant intends to rely for a Special Exemption Use Permit. The application shall contain, at minimum, those items and materials required by § 10.1808 pertaining to site plan review.

**02 NOTICE; HEARING ON APPLICATION**

The Planning Commission shall, upon receipt of the application in proper form, provide notice of the applications as set forth in subsection 03, below. The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction. At the initiative of the Planning Commission or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

**03 NOTICE OF HEARING**

Notices shall be published in a newspaper of general circulation in the Township. Notices shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:

- (a) Describe the nature of the request.
- (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no

such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

- (c) State when and where the request will be considered.
- (d) Indicate when and where written comments will be received concerning the request.

**04 DECISION**

The Planning Commission shall either deny, approve or approve with conditions a permit for such Special Exemption Use. The Planning Commission's decision shall be incorporated in a written statement of findings and conclusions relative to the special land use specifying the basis for the decision and any conditions, limitations or requirements upon which such any such permit is granted. The written decision shall be filed with the zoning enforcement officer of the Township.

**05 CONDITIONAL APPROVAL**

Any conditions, limitations or requirements shall be reasonable and designed to protect natural resources, the health, safety and welfare of the land and the social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are effected by the proposed use or activity; be consistent with the intent and purpose of the zoning ordinance; designed to insure compatibility with adjacent uses of land and the natural environment and designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

**06 DURATION OF PERMIT**

The Planning Commission shall have the right to limit the duration of a Special Exemption Use where the same is of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of said Commission after a hearing upon application of any aggrieved party.

**07 VIOLATION, REVOCATION**

The site plan, specifications and all conditions, limitations and requirements imposed by the Board shall be recorded with the township and shall be incorporated as a part of the special exemption permit. Violations of any of these at any time shall cause revocation of said permit and such special exemption use shall cease to be a lawful use.

**08 EXPIRATION**

Any property which is the subject of a special exemption permit which has not been used for a period of 6 months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission) for the purposes for which such special exemption was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special exemption uses shall thereupon terminate.

**09 COMPLIANCE BOND**

To insure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the



residents of the township and future users or inhabitants of the proposed project or project area, the Planning Commission may require a cash deposit, certified check, irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the township clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than 6 months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportions to the ratio of the work completed as the work progresses.

## **10 APPEALS**

The Zoning Board of Appeals shall consider appeals taken from decisions of the Planning Commission, made in regard to applications for Special Exemption Use permits.

## **ARTICLE V**

### **10.500 EARTH REMOVAL, QUARRYING, GRAVEL PROCESSING, MINING AND RELATED MINERAL EXTRACTION BUSINESSES**

#### **10.501 STANDARDS**

Earth removal, chlorine, gravel processing, mining and related mineral extraction businesses may be permitted as a special exemption use in all zoning districts with the exemption of R district. Prior to the approval by the Zoning Commission of a special exemption use for earth removal, quarrying, gravel processing, mining and related mineral extraction businesses in any area of the township, said Commission shall be satisfied the following conditions and limitations are, or shall be, strictly complied with, in addition to any other

requirements contained in the township zoning ordinance or in any other township ordinance controlling such operations:

**01 LOCATION**

All such operations shall be located on roads which do not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not “all weather” roads.

**02 SETBACK REQUIREMENTS**

Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. If the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission and adequate lateral support as set forth at all times maintained. Additionally:

- (a) No such excavation operation shall be permitted within 50 feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining land is not maintained.

- (b) The permanent processing plant and its accessory structures shall not be located closer than 250 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.
- (c) No such excavation operation shall be located within 100 feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Department of Environmental Quality. No such mining operations shall interfere with the natural established flow of surface and sub-surface waters to the detriment or damage of adjoining public or private properties.

**03 SIGHT BARRIERS**

Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:

- (a) Earthen berms constructed to a height of 6 feet above the mean elevation of the centerline of the adjacent public highway or 6 feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be planted with grass, trees and shrubs.
- (b) Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than 4 feet in height at the time of planting and which grow to not less than 6 feet in height at

maturity and sufficiently spaced to provide effective sight barriers when 6 feet in height.

- (c) Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than 6 feet and maintained in good repair.

#### **04 NUISANCE ABATEMENT**

Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibration which are not necessary in the operation of such equipment. Additionally:

##### **a. Air pollution**

Smoke, dust, dirt, vapors and other emissions shall be kept to a minimum by the use of modern equipment and methods of operation designed to avoid excessive emissions 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.

##### **b. Hours**

The operation shall be restricted to the hours of 7:00 o'clock a.m. until 7:00 o'clock p.m. and no operations shall be allowed on Sundays.

##### **c. Fencing**

All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others and shall be eliminated as expeditiously as possible.

## **05 RECLAMATION OF MINED AREAS**

Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity. The following standards shall control reclamation and rehabilitation:

- (a) All excavation shall be either to a water-producing depth of not less than 5 feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure:
  - 1. that the excavated area shall not collect stagnant water and not permit the same to remain therein; or
  - 2. that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
- (b) The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper than 1 foot vertical to 3 feet horizontal.
- (c) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except

where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of 4 inches sufficient to support vegetation.

- (d) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
- (e) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
- (f) A performance bond or cash shall be furnished the township clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$5,000.00 per acre proposed to be mined or excavated in the following 12 months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this ordinance and the applicant's filed plan. Mined areas resulting in a water depth of 5 feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than 1 vertical to 3

horizontal, for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually on or about the anniversary date of the excavation permit for adjustment and compliance with the foregoing requirements by the Township Zoning Administrator and the Township Planning Commission. In no event shall such financial guarantee be less than \$5,000.00 in amount.

**06 SUBMISSION OF OPERATIONAL AND RECLAMATION PLANS**

No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of the within Ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:

- (a) a contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are “all weather” roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property
- (b) the number of acres and the location of the same proposed to be operated upon within the following 12-months’ period after commencement of operations
- (c) the type of mining or processing proposed to be conducted and the nature of the equipment to be used
- (d) the location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site
- (e) Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be

conducted closer than 150 feet from the boundaries of the site, said soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the township engineer. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in the within Ordinance to the boundaries of the site.

- (f) A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

**07 NOTICE; HEARING**

After receiving an application for the grant of a special exemption permit for an earth removal, quarrying, gravel processing, mining, and related mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall provide notice of the applications as set forth in section 10.402.02 of this Ordinance. If a public hearing is requested upon the application, the Planning Commission shall hold a public hearing in the same manner, preceded by the same notice required for special exemption uses (10.402.03). Opportunity shall be given to all present to be heard at such hearing.



**08 DECISION**

The Planning Commission shall either deny, approve or approve the application with conditions. The Planning Commission's decision shall be incorporated in a written statement of findings and conclusions relative to the application, specifying the basis for the decision and any conditions, limitations or requirements upon which a permit may be granted. The written decision shall be filed with the zoning enforcement officer of the Township.

Such decision shall be based upon the criteria set forth in the within Ordinance and shall be based, in addition, on a consideration of the following:

- (a) the most advantageous use of the land, resources and property
- (b) the character of the area in question and its peculiar suitability, if any, for particular uses
- (c) conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area
- (d) the protection and preservation of the general health, safety and welfare of the people of the Township
- (e) the scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations
- (f) whether or not the operations were previously in existence prior to the adoption of the text provision concerning the same and the extent and character of such previous operations.

**09 CONDITIONAL APPROVAL, DURATION, PERIODIC REVIEW**

In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems

necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time its special exemption permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. All permits shall be reviewed by the Planning Commission annually.

**10 RENEWAL, EXTENSION AND REVOCATION**

The Planning Commission shall be empowered to renew or extend a special exemption permit where all standards and conditions are complied with and it may revoke or refuse to renew the same where non-compliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial of renewal and not less than 30 days have elapsed to correct the said violation.

**11 FEES**

The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.

**12 LIABILITY INSURANCE**

All operators shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists, in the amount of not less than \$300,000 for each person or property injured or damaged and not less than \$1,000,000 for injury or damage to more than one person or one

person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk.

**13 VARIANCES**

The Zoning Board of Appeals shall have the right and authority to grant variance from the foregoing conditions and limitations where particular circumstances or hardship may exist, the spirit and intent of the provisions to protect the neighborhood from devastation are still complied with and substantial justice would thereby be effected.

**ARTICLE VI**

**10.600 NON-CONFORMING USES**

**10.601 NON-CONFORMING USES**

The following regulations shall control lawful non-conforming uses in existence at the time of passage of this ordinance.

**10.602 CONTINUATION**

Lawful non-conforming uses or structures in existence at the time of passage of this ordinance may be continued but shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this ordinance.

**10.603 REPAIR/REPLACEMENT OF DESTROYED STRUCTURES**

If the cost of repair or replacement of a non-conforming use or structure which has been destroyed by reason of windstorm, fire, explosion or any act of God or the public enemy

exceeds 50% of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this ordinance.

**10.604 ABANDONMENT OF USE**

If the non-conforming use of any land or structure shall terminate for a continuous period of time exceeding one year, such use shall not be re-established and any future use of land and structure shall be in conformity with this ordinance.

**10.605 VOLUNTARY CHANGE TO CONFORMING USE**

If a non-conforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a non-conforming less restrictive use.

**10.606 NON-CONFORMING DWELLINGS**

Notwithstanding the foregoing, a dwelling located in a district which does not permit the same may still be altered, expanded and/or rebuilt.

**10.607 PUBLIC LANDS PASSING TO PRIVATE OWNERSHIP/USE**

In the event lands which are presently public lands shall become privately owned lands or shall become effectively utilized or primarily leased for private use, those lands shall be immediately classified as the most restrictive zoning classification of those lands immediately adjacent thereto.

**ARTICLE VII**

**10.700 SETBACK AND SIDE LINE SPACING**

**10.701           “R1” - RURAL RESIDENTIAL/ AGRICULTURAL DISTRICT**

In “R1” – Rural Residential/ Agricultural District, there shall be a setback from all public street right-of-way lines of not less than 35 feet for all buildings. No building in the “R1” District shall be erected closer than 20 feet from the interior side line or rear line of the lot or parcel of property upon which the building is located.

**10.702           “R2” - SINGLE-MULTIPLE FAMILY RESIDENTIAL DISTRICT**

In “R2” – Residential District, there shall be a setback from all public street right-of-way lines of not less than 35 feet for all buildings, provided that when 25% or more of all the frontage on one side of a street between two intersecting streets has, at the time of the passage of this ordinance, been built up with permanent residences, the average setback of such residences, but not more than 35 feet, shall be the minimum setback line for that side of such street between such intersecting streets; no building in such districts shall be erected closer than 5 feet to the interior side or rear line of the lot or parcel of property upon which the building is located; provided, however, that private garages, erected not less than 60 feet from the front street line, may be erected not less than 2 feet from the interior side line. When computing built up frontage for a permanent residence, there shall be included the dwelling and curtilage thereof.

**10.703           “C/I” - COMMERCIAL DISTRICT**

In “C/I” Commercial District, the minimum setback line for commercial and industrial buildings shall be 75 feet from all street right-of-way lines abutting the property and there shall be a minimum setback line for the parking or storage of automobiles and vehicles outside buildings or structures of not less than 25 feet; provided, however, that in any such districts where there are commercial and industrial buildings (other than private residences or buildings originally constructed as private residences) already existing on the effective date of this amending ordinance, on the side of the street between 2 intersecting streets, the minimum setback for buildings on such side of the street between such intersecting streets

shall be to the depth as established by such existing commercial or industrial building which is closest to the street line. In no event, however, shall vehicle parking be allowed on private premises closer than 25 feet to the street right-of-way line abutting such premises except where such parking is presently being conducted on the effective date of this ordinance, and no other parking area on the premises is available which would permit parking beyond said 25-foot setback requirement. There shall be no side or rear line restriction from interior lot lines for commercial and industrial buildings within such commercial and industrial districts unless otherwise specified in this ordinance. Any residential buildings, however, constructed within said district shall be set back not less than 5 feet from such interior, side and rear lot lines.

**10.704 SPECIAL SETBACK REQUIREMENTS**

It is further provided that notwithstanding anything herein contained to the contrary, the minimum setback line shall be 15 feet for gasoline pumps, display racks, air pumps, and other equipment; 75 feet for cars, stored or placed upon property used for storage of, or occupancy by, junk cars or used cars for the purpose of sale of parts or junk therefrom; and 25 feet for cars and other vehicles on property used for the sale of used cars. The minimum setback line for poultry or animal shelters, coops, barns, or sheds shall be 75 feet; provided, however, that in platted property no such structure shall be erected closer than 20 feet to the interior side line of the lot upon which such structure is located.

**ARTICLE VIII**

**10.800 AREA REQUIREMENTS**

**10.801 PRIVATE DWELLING UNITS**

All private dwelling units hereafter constructed containing not more than 2 bedrooms shall contain not less than 720 square feet of first-floor space as measured around the exterior of

said dwelling. All private dwelling units hereafter constructed containing more than 2 bedrooms shall contain an additional 150 square feet of habitable floor area for each bedroom in excess of 2 within said dwelling unit.

**10.802 MEASUREMENTS**

All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

**10.803 REVIEW**

In the event of any controversy concerning what constitutes habitable floor area, the Zoning Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Township Zoning Administrator or by the applicant for a zoning permit.

**ARTICLE IX**

**10.900 OFF-STREET PARKING OF MOTOR VEHICLES**

**10.901 SCREENING REQUIRED**

Off-street parking facilities in non-residential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence or compact planting not less than 4 feet or more than 8 feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.

**ARTICLE X**

**10.1000 USE DISTRICT BOUNDARIES**

**10.1001 ZONING MAP**

The location and boundaries of the zones established in the township shall be shown on a map entitled Zoning Map of LeRoy Township and said map, section, or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.

**10.1002 LOCATION OF ZONING MAP**

The official Zoning Map, properly attested, shall be in the custody of the Township Clerk., LeRoy Village Clerk's office. Copies shall be available at the LeRoy Library, Township and Village Zoning Administrator's office.

**10.1003 AMENDMENTS TO ZONING MAP**

Such Zoning Map may be amended from time to time to reflect changes in zones and the rezoning of property shown thereon in the same manner as amendments may be made to the text of this Zoning Ordinance. Such changes shall be recorded to scale on duplicate copies of the original official Zoning Map and shall be accomplished by written legal descriptions in appropriate amending ordinances.

**ARTICLE XI**

**10.1100 RESIDENTIAL BUFFER AREA**

**10.1101 PURPOSE**

As a result of the lack of zoning prior to the adoption of this ordinance, many residential dwellings have been constructed and located within areas that are not predominately commercial or industrial areas. In order to protect such existing dwellings from new commercial or industrial activities or structures, it is herein provided that no new



commercial or industrial activities or structures shall hereafter be located closer than 300 feet to any such existing dwelling which is occupied for dwelling purposes and further such new commercial or industrial structure or activity shall be screened from such adjoining dwelling in accordance with the provisions of this Article.

**10.1102        PROVISIO**

The foregoing provision shall not operate to reduce the useable area of the adjoining commercial or industrial property under bona fide separate ownership on the effective date of this ordinance below 50%. If the same would cause such a result, this buffer area shall be accordingly reduced to permit such 50% use.

**ARTICLE XII**

**10.1200        TENTS, RECREATIONAL VEHICLES and AUTOMOBILE TRAILERS**

**10.1201        USE AS DWELLING PROHIBITED**

Tents, and/or recreational vehicles and/or automobile trailers shall not be used for dwelling purposes within the township limits; provided, however, that recreational vehicles or automobile trailers may be used for temporary dwellings for a total period of not more than 90 days in any one year when located upon premises having running water and sewage facilities, and provided further that tents and recreational vehicles may be occupied for dwelling purposes within duly licensed travel trailer camps and subject to the requirements thereupon imposed.

**ARTICLE XIII**

**10.1300        TOWERS**

**10.1301        PURPOSE:** The purpose of this Article is to establish general guidelines for the siting of towers and antennas in LeRoy Township reducing potentially adverse

effects upon the health, safety and welfare of Township residents and upon property values in the Township by: (1) location of necessary towers in non-residential areas; (2) minimizing the total number of towers erected in the Township; (3) encouraging the joint use of new and existing tower sites over the construction of new single-use towers; (4) location of towers in areas of least adverse aesthetic effect; and (5) minimizing adverse visual impact through design standards.

**10.1302 DEFINITIONS:**

**01 Alternative Tower Structure**

Means man-made trees, clock towers, water towers, bell steeples, light poles and/or similar alternative design mounting structures that camouflage, disguise or conceal the presence of antennas or towers.

**02 AM Array**

Means one or more tower units and supporting ground system functioning as one AM broadcast antenna.

**03 Antenna**

Means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless or other telecommunications signals.

**04 Backhaul Network**

Means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**05 FAA**

Means the Federal Aviation Administration.

**06 FCC**

Means the Federal Communications Commission.

**07 Height**

Means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**08 Preexisting Towers and Antennas**

Means any tower or antenna in use prior to the effective date of this Ordinance.

**09 Tower**

Means any structure and supports thereto designed and constructed primarily for the purpose of supporting one or more antennas for television, telephone, radio and similar communications purposes, including self supporting lattice towers, guyed towers and monopole towers.

**10 Tower Park**

Means an area where multiple towers may be approved by the Township Planning Board, to be clustered subject to engineering limitations.

**10.1303 APPLICABILITY**

**01 New Towers and Antennas.**

Except as otherwise provided, this Ordinance shall apply to all new towers and antennas in the Township.

**02 Amateur Radio Station Operators/ Receive Only Antennas.**

This ordinance shall not apply to any tower, or the installation of any antenna that is under seventy feet (70') in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

**03 Windmills and Wind Generators.**

This ordinance shall not apply to any tower that is under seventy feet (70') in height and is used exclusively for agricultural or residential water pumping or non-commercial electrical generation.

**04 Preexisting Towers or Antennas.**

Preexisting towers and antennas shall be exempt from the provisions of this Article, other than the requirements of 10.1304.06 and .07.

**05 AM Array.**

For purposes of this ordinance, an AM Array shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of component towers included in the array. Additional tower units may be added within the perimeter of the array by right.

**10.1304 GENERAL REQUIREMENTS:**

**01 Principal or Accessory Use.**

Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

**02 Lot Size.**

For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

**03 Inventory of Existing Sites.**

Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas that are either within LeRoy Township, or within one mile of the border thereof, including specific information about the location, height, design, and occupancy of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the Township, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

#### **04 Aesthetics.**

Towers and antennas shall meet the following minimum requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use conventional materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
4. Wherever possible, towers shall be located away from, and out of view from, arterial roads.

#### **05 Lighting.**

Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Lighting required for maintenance must be shielded and directed downward, and only used when necessary. If navigational hazard lights are required, such lights shall not exceed minimum regulatory standards and shall be designed to operate as unobtrusively as possible using the best available technology.

#### **06 State or Federal Requirements.**

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a difference compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such

revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

**07 Building Codes; Safety Standards.**

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the original standards under which the tower was designed in compliance with the Electronic Industries Association (EIA), as amended from time to time. If, upon inspection, the Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower and antenna at the owner's expense.

**08 Measurement.**

For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located anywhere in the Township irrespective of jurisdictional boundaries.

**09 Not Essential Services.**

Towers and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

**10 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 and shall file a copy of all required franchises with the Zoning Administrator.

**11 Public Notice.**

For purposes of this Ordinance, any special land use request, variance request, or appeal of an administrative decision shall require public notice to all property owners within three hundred (300) feet of the subject property in accordance with Article IV of this Ordinance.

**12 Signs.**

No signs, except hazard and warning signs, shall be allowed on an antenna or tower.

**13 Buildings and Support Equipment.**

Buildings and support equipment associated with antenna or towers shall comply with all requirements of federal, state and local law.

**14 Multiple Antenna/Tower Plan.**

The Township encourages the users of towers and antennas to submit a single application for approval of multiple towers or tower parks and/or antenna sites. Applications for approval of multiple sites or tower parks shall be given priority in the review process.

**15 Grounding.**

Antennas and metal towers shall be grounded for protection against a direct strike by lightning according to EIA standards.

**10.1305 PERMITTED USES.**

**01 General.**

The uses listed in this Section are deemed to be permitted uses and may be installed without formal approval.

**02 Permitted Uses.**

Antennas located on public property, provided a license or lease authorizing such antenna has been approved by the County and/or the legislative body of the municipality having jurisdiction over the location.

**10.1306 ADMINISTRATIVELY APPROVED USES.**

**01 General.**

The following provisions shall govern the issuance of administrative approvals for towers and antennas:

1. The Zoning Administrator, after review in accordance with the Site Plan Review provisions of Section 10.1606-.1608, of this Ordinance, may administratively approve the uses listed in this section.
2. Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in Section 10.1608 of this Ordinance and a nonrefundable fee as established by resolution of the Township Board to reimburse the Township for the costs of reviewing the application.
3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with applicable provisions of this Ordinance.
4. The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Zoning Administrator fails to respond to the applicant within said sixty (60) days, then the applications shall be deemed to be approved.
5. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements or separation distances between towers by up to fifty (50) percent.
6. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
7. If an administrative approval is denied, the applicant may file an application for a Special Land Use Permit hearing by the Planning Board, pursuant to Article IV of this Ordinance. Appeals of decisions by the Township Planning Board shall be to the LeRoy Township Zoning Board of Appeals.

**02 List of Administratively Approved Uses.**

The following uses may be administratively approved by the Zoning Administrator after conducting an administrative review:



1. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in the C/I zoning district.

2. Locating antennas on existing structures or towers consistent with the terms of subsections “a” and “b”. below.

a. Antennas on Existing Structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial or institutional structure, provided:

(1) The antenna does not extend more than thirty (30) feet above the highest point of the structure;

(2) The antenna complies with all applicable FCC and FAA regulations; and

(3) The antenna complies with all applicable building codes.

b. Antennas on Existing Towers. An antenna which is to be attached to an existing tower may be administratively approved by the Zoning Administrator. Collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

(2) Height

(a) An existing tower may be modified or rebuilt to accommodate the collocation of an additional antenna to a taller height, not to exceed thirty (30) feet over the tower’s existing height and not to exceed a total height of one hundred ninety nine (199) feet.

(b) The height change referred to in subsection (2)(a.) above, may only occur one time per communication tower.

(c) The additional height referred to in subsection (2)(a.) shall not require an additional distance separation as set forth in Section 10.701.02(5) The tower's pre-modification height shall be used to calculate such distance separations.

### (3) Onsite location

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section 10.130.02(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of Section 10.130.02(5) .

(d) The onsite relocation of a tower within the separation distances to residential structures or residentially zoned districts as established in Section 10.1307.02(5) shall only be permitted when approved by the Zoning Administrator.

3. New Towers in Non-residential Zoning Districts. Locating any new tower in a non-residential zoning district other than industrial or commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the purposes of this Ordinance and the requirements of section 10.1304; the tower meets the setback requirements in Section 10.1307(B)(4) and separation distances in Section 10.1307(B)(5) , and the tower meets the following height and usage criteria:

- a. for a single user, up to ninety (90) feet in height;
  - b. for two users, up to one hundred twenty (120) feet in height; and
  - c. for three or more users, up to one hundred fifty (150) feet in height.
4. Locating any alternative tower structure in a zoning district other than industrial or commercial that in judgment of the Zoning Administrator is in conformity with the purposes of this ordinance.
  5. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

## **10.1307 SPECIAL LAND USE PERMITS**

### **01 General.**

The following provisions shall govern the issuance of special land use permits for towers or antennas by the Planning Commission.

1. If the tower or antenna is not permitted use under Section 10.1305 of this ordinance or permitted to be approved administratively pursuant to Section 10.1306 of this ordinance, then a special land use permit under Article IV shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
2. Applications for special land use permits under this Section shall be subject to the procedures and requirements of Special Land Use Permits in accordance with Article IV of this Ordinance, except as modified by this Section.
3. In granting a special land use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

4. Engineering information that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

5. An applicant for a special land use permit shall submit the information described in this Section and a non-refundable fee as established by resolution of the Township Board to reimburse the Township for the costs of reviewing the application.

**02 Towers.**

1. Information Required. In addition to or in lieu of information required for applications for special land use permits pursuant to Article IV of this Ordinance, applicants for a special land use permit for a tower shall submit the following information:

a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), all properties within the applicable separation distances set forth in Section 10.1307(B)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Ordinance.

b. Legal description and parcel number of the parent tract and leased parcel (if applicable).

c. The setback distance between the proposed tower and the nearest residential structure or platted or unplatted residentially zones properties.

d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to 10.1304(C) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator and occupancy of the existing tower(s), if known.

e. A landscape plan showing specific landscape materials.

- f. Method of fencing, finished color and, if applicable, the method of camouflage and/or illumination.
- g. A description of compliance with Sections 10.1304 (C), (D), (E), (F), (G), (J),(L), and (M), and Section 10.1307(B)(4) and (5).
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the County or within one (1) mile of the border thereof.
- j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- k. A description of the feasible location(s) of future towers or antennas within the County based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

2. Factors Considered in Granting Special Land Use Permits for Towers.  
In addition to any standards for consideration of special land use permit applications pursuant to Article IV of this Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special land use permit, although the Planning Commission may waive or reduce the burden of the applicant of one or more of these criteria if the Planning Commission concludes that the purposes of this ordinance are better served thereby:

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;

- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect to reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of roof towers or structures, as discussed in Section 10.1307(B)(3) of this Ordinance.

3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

4. **Setbacks.** The following setback requirements shall apply to all towers for which a special land use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the purposes of this Ordinance would be better served thereby:

a. Towers must be set back a distance equal to at least the height of the tower from any adjoining lot line.

b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

5. **Separation.** The following separation requirements shall apply to all towers and antennas for which a special land use permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the purposes of this Ordinance would be better served thereby.

a. **Separation from off-site uses/designated areas.** Tower separation shall be measured from the base of the tower to the nearest off-site residential structure and/or designated areas as specified in Table 1.

**Table 1**  
**Off –site Use/Designated Area Separation Distance.**

single-family or two (2) family residential units <sup>1</sup>	200 feet or 300% height of tower, whichever is greater
Vacant single-family or two (2) family residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired <sup>2</sup>	200 feet or 300% height of tower whichever is greater
Vacant unplatted residentially zoned lands <sup>3</sup>	100 feet or 100% height of tower plus the required setback of the district of location, whichever is greater
Existing multi-family residential units	200 feet or 300% height of tower, whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

b. Except as provided for in 10.1306(2)(I) and 10.1304(N) separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2, except where engineering studies show incompatibility.

**Table 2**  
**Existing Towers – Types**

	Lattice	Guyed	Monopole 75 Ft. in Height or Greater	Monopole Less Than 75 Ft. in Height
Lattice	5,000'	5,000'	1,500'	750'
Guyed	5,000'	5,000'	1,500'	750'
Monopole 75' in height or greater	1,500'	1,500'	1,500'	750'
Monopole Less than 75' in height	750'	750'	750'	750'

<sup>1</sup> Includes modular homes and mobile homes used for living purposes.

<sup>2</sup> Separation measured from base of tower to the nearest lot line.

<sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land.



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6. Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.

7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special land use permit is required; provided, however, that the Planning Commission may waive such requirements if the purposes of this Ordinance would be better served thereby.

a. Tower facilities shall be landscaped with a buffer strip of plant materials at least ten (10) feet wide and of sufficient height to effectively screen the view of the tower compound from property used for residences.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

**10.1308 BUILDINGS OR OTHER EQUIPMENT STORAGE**

**01 Antennas Mounted on Structures or Rooftops.**

The equipment cabinet or structure used in association with antennas shall comply with the following:

1. The cabinet or structure shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height. In addition, for buildings and structures which are less than forty (40) feet in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or nine (9) feet in height, shall be located on the ground and shall not be located on the roof of the structure. Where antennas are collocated on a single tower, the size of the structure

may be increased by fifty (50) percent of the basic size allowed for each additional antenna.

2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than twenty five (25) percent of the roof area.

3. Equipment storage buildings or cabinets shall comply with all applicable building codes.

## **02 Antennas Mounted on Utility Poles or Light Poles.**

The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential districts, the equipment cabinet or structure may be located:

a. In a front or side yard provided the cabinet or structure is no greater than nine (9) feet in height or two hundred (200) square feet in gross floor area and the cabinet/structure meets minimum setback requirements from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least six (6) feet and a planted height of at least three (3) feet.

b. In a rear yard, provided the cabinet or structure is no greater than ten (10) feet in height or three hundred (300) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet.

2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than ten (10) feet in height or four hundred (400) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet.

**03 Antennas Located on Towers.**

The related unmanned equipment structure shall not contain more than three hundred (300) square feet of gross floor area or be more than ten (10) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

**04 Modification of Building Size Requirements.**

To encourage collocation, the requirements of section 10.1308(A) through (C) may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special land use.

**10.1309 PERFORMANCE GUARANTEE; REMOVAL OF ABANDONED ANTENNAS AND TOWERS; REBATE**

Upon issuance of building and zoning permits authorizing tower construction, the tower owner shall deposit with the Township Clerk, to insure completion of tower removal, a performance guarantee in the amount of \$20,000 in cash, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township. Any antenna or tower that is not operated for a continuous period of twelve (12) 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 said ninety (90) days shall be grounds to remove the tower of antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. Cash deposits shall be rebated at reasonable intervals, as removal work progresses, proportionally to the amount of work completed.

**10.1310 NONCONFORMING TOWERS.**

**01 Non Expansion of Nonconforming Use.**

Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

**02 Preexisting Towers.**

Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New

construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

**03 Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.**

Notwithstanding Section 10.1309, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special land use permit and without having to meet the separation requirements specified in Section 10.1307(B)(4) and (5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 10.1309.

**ARTICLE XIV**

**10.1400 MISCELLANEOUS PROTECTION REQUIREMENTS**

**10.1401 SEWAGE AND WATER**

Every structure hereafter erected for dwelling purposes shall be provided with water and adequate sewage facilities.

**10.1402 OUTSIDE TOILETS**

No outside toilets shall hereafter be erected unless in compliance with Article 6 of Central Michigan Health Department Sanitary Code.

**10.1403 BASEMENT DWELLINGS**

No structure, the major portion of which consists of a basement, shall be occupied as a dwelling except under a variance from the Zoning Board of Appeals for a limited period of 2 years to permit the construction of the above grade dwelling superstructure as shown on appropriate plans submitted by the applicant and provided said Board is satisfied of the applicant's ability and intent to complete such construction within said period. Specifically

designed energy saving underground dwellings are exempt from above restrictions provided plans for the dwelling are submitted to and approved by the Zoning Administrator.

**10.1404 GARAGES**

Any building erected as a garage or in which the main portion is a garage shall in no case be occupied for dwelling purposes unless it complies with all the provisions of this ordinance relating to buildings for residential purposes.

**10.1405 MINIMUM LOT SIZE**

No dwelling shall be constructed on any lot consisting of less than two (2) acres, except as otherwise provided for Cluster, Multiple Use or Planned Unit Developments in the R1 and R2 districts.

**10.1406 LOT ACCESSIBILITY**

No dwelling unit shall be built on a lot unless the lot abuts upon a public street or upon a permanent unobstructed access easement of record to a public street. Such easement of record shall have a minimum width of 33 feet, excepting where an access easement of record of less width existed prior to the adoption of this Ordinance. All regulations contained in the ordinance shall apply to such easements of record in the same manner as if the same were dedicated streets.

**10.1407 ACCESSORY BUILDING OR USE PROHIBITED WITHOUT A PRINCIPAL BUILDING OR USE**

No accessory building or use shall be used or engaged in prior to the establishment of the principal building or use upon the premises except as a construction facility for said principal building. Such construction facility use shall terminate upon completion of the principal building or buildings upon the premises. Accessory buildings shall not be used for human habitation.

**10.1408 CLEAR VISION CORNERS**

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

**10.1409 OPEN SPACE**

No single family, two-family or multiple family dwelling or dwellings and buildings accessory thereto shall occupy more than 30% of the ground area of the lot or parcel upon which the same is located.

**10.1410 MOBILE HOMES**

All mobile homes placed or installed in the Township after the effective date of this Ordinance shall have a minimum of 720 square feet of heated floor space and shall otherwise comply with all applicable standards set forth in Article II, Section 10.201.08 of this Ordinance, as amended.

**10.1411 CHANGE IN USE**

No manufactured or constructed building, structure or vehicle may be changed (relocated, moved or converted) to be used for a purpose other than the originally intended purpose without a permit from the Zoning Administrator. For example: a mobile home, or trailer hauler, etc. cannot be relocated, moved or converted to use as a garage or a shed. If the Zoning Administrator confirms the building or structure is otherwise in compliance with this Ordinance and applicable codes, the permit shall be granted. If the permit is not granted, the applicant may appeal the Zoning Administrator's decision as provided in this Ordinance

## **ARTICLE XV**

### **10.1500 ZONING BOARD OF APPEALS**

#### **10.1501 COMPOSITION**

A Township Zoning Board of Appeals shall be appointed by the Township Board as prescribed by statute with all the powers and authority prescribed by law or delegated to it under specific provisions of the ordinance. The Board of Appeals shall consist of three regular members; one regular member shall be a member of the Township Planning Commission. An elected officer of the township shall not serve as chairman of said board and an employee or contractor of the Township Board may not serve as a regular member or an employee of said board of appeals. One regular member may be a member of the township board.

#### **10.1502 ALTERNATE MEMBERS**

The Township Board may appoint not more than 2 alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the zoning board of appeals.

#### **10.1503 TERM OF OFFICE**

Unless otherwise specified in this section, the term of each member shall be three years and until a successor has been appointed and qualified, which successor must be appointed not more than one month after the expiration of the preceding term. The term of that member of

the Zoning Board of Appeals who also serves as a member of the Planning Commission shall be limited to the time that person continues to serve on the Planning Commission, or 3 years, whichever is less.

#### **10.1504 CONFLICTS OF INTEREST**

##### **01 DECLARING A CONFLICT.**

Members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request when:

- a. A relative or other family member is involved in any request for which the member is asked to make a decision;
- b. The member has a business or financial interest in the property involved in the matter before the Board of Appeals or has a business or financial interest in the applicant's company, agency or association;
- c. The member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the zoning ordinance or other applicable ordinance, or
- d. There is a reasonable appearance of a conflict of interest, as determined by the member declaring such conflict.



## **02 ACTIONS OF MEMBER DECLARING CONFLICT**

The member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the Board. He or she should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. *(If he or she prefers, the member declaring a conflict may ask the other Board members to decide if he or she should abstain, although this is not required. A majority vote of the remaining Board members shall be made.)* The member declaring a conflict may absent him/herself from the room in which the discussion takes place. Zoning Board of Appeals members have constitutionally protected rights to participate in matters before the Board as a private citizens.

### **10.1505 QUORUM**

The Zoning Board of Appeals shall not conduct business unless a majority of the full board are present. A majority may be constituted of regular and alternate members.

### **10.1506 POWERS AND DUTIES**

The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of the ordinance. The Zoning Board of Appeals may adopt rules to govern its procedures. It shall hear and decide, by majority vote, all matters referred to it upon which it is required to pass under this Ordinance.

### **10.1507 AUTHORITY OF THE ZONING BOARD OF APPEALS.**

The Zoning Board of Appeals may grant variances, hear appeals from administrative actions, and make interpretations of this Ordinance as follows:

**01 VARIANCES.**

Upon a showing of practical difficulty, the Board may grant variances to such requirements as lot area and width regulations, yard and depth regulations. Any requirement of this Ordinance which can be expressed in terms of numbers may be considered for a variance. In passing upon variances, the Board may vary or modify the provisions of the Ordinance as authorized above so that the spirit of the Ordinance is observed, public safety is secured, and substantial justice done.

**02 PRACTICAL DIFFICULTY STANDARDS.**

To determine Practical Difficulty the following standards will be used and a finding for each standard shall be made and so stated in the motion for final variance approval or denial.

- A. Will the strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose? Will strict compliance with the restrictions governing setbacks, frontage, height, bulk or density unreasonably prevent the owner from using the property for an otherwise permitted purpose?
- B. Will granting the variance be fair to the applicant, or would a lesser variance work just as well? Will a variance do substantial justice to the applicant, as well as other property owners in the district, or is a lesser relaxation, other than the one applied for, sufficient to give substantial relief to the owner of the property and be more consistent with justice to other property owners?
- C. Is the need for the variance due to a situation that is unique to the property and not generally found elsewhere in the same zoning district? Is the owner's plight due to circumstance unique to the property and not general conditions in the area. Uniqueness includes but is not limited to parcels which are odd in shape, small in size, possess areas of wetlands or other water bodies, contain natural features like bedrock or threatened plant species, or similar circumstances).

D. If granted, will the variance uphold the spirit and intent of the ordinance and be fair to neighboring properties?

E. Has the need for the variance been created by some action of the applicant? Is the problem self-created?

### **03 APPEALS OF ADMINISTRATIVE ACTIONS.**

The Zoning Board of Appeals is empowered to review and reverse or modify any order, decision or determination made by the Zoning Administrator. The Board is also empowered to review all decisions of the Planning Commission.

### **04 INTERPRETATIONS.**

The Zoning Board of Appeals may interpret provisions of this Ordinance as outlined below. Each such interpretation shall establish the precedent for future treatment of the issue being addressed. To achieve the objective of consistent enforcement of this Ordinance, whenever an interpretation question arises which has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the Board. The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.

- a. The Board may interpret the Zoning map to determine the precise location of the boundary lines between zoning districts.
- b. The Board may classify any use which is not specifically mentioned for any Zoning District as a use allowed by Right or Special Use within at least one Zoning District, providing that the classification shall be consistent with the classification of similar uses and with the purpose and intent of each Zoning District.
- c. The Board may interpret any portion of this Ordinance when the Zoning Administrator is unable to clearly determine its intent or effect.

**10.1508        REQUESTS FOR APPEALS.**

An appeal may be requested by any person aggrieved, or by any officer, department, or board of a local unit of government. Any such request must be made in writing not more than fifteen (15) days after the date of the Zoning Administrator's or Planning Commission's written decision. The request shall be filed with the Zoning Administrator and shall specify the grounds for the review. The Zoning Administrator or Planning Commission shall immediately transmit to the Chairperson of the Board of Appeals any papers constituting the record upon which the action being reviewed was taken.

**10.1509        STAY.**

An appeal shall stay all proceedings in furtherance of the action being reviewed, except as follows. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals, after an appeal has been filed, that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.

**10.1510        FEES.**

A fee as established by the Township Board shall be paid to the Zoning Administrator at the time of filing application with the Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, and other expenses incurred by the Board of Appeals for the appeal.

**10.1511        RULES FOR ZONING BOARD OF APPEALS ACTION.**

**01        PUBLIC MEETING.**

All meetings of the Zoning Board of Appeals shall be in accordance with the Open Meetings Act (Act 267 of 1976). At the meeting, a party may appear in person or may be represented by agent or attorney.

**02 INTENT.**

Any decision by the Zoning Board of Appeals must not be contrary to the public interest or to the intent and purpose of this Ordinance.

**03 USE VARIANCES PROHIBITED.**

No variance, site plan approval, or administrative review may be construed to allow the establishment any use which is not permitted by right or by Special Use Permit in the applicable Zoning District. The Zoning Board of Appeals may only **classify** a use which is not specifically mentioned along with a **comparable** permitted use for the purpose of the use regulations of a zoning district. In exercising the power of administrative review, the Zoning Board of Appeals must **apply, and not vary,** the terms of the Zoning Ordinance.

**04 CONSIDER PROPERTY VALUES.**

In any decision, the Zoning Board of Appeals must try to avoid causing a substantial adverse effect on property values in the vicinity of the subject property or on other parcels in the Zoning District in which the subject property is located.

**05 SINGLE PARCEL.**

Any action brought before the Zoning Board of Appeals may relate only to a single parcel which must be under control of the applicant. If the applicant is not the owner of the property, evidence must be provided that the owner concurs with the request for Zoning Board of Appeals action.

**06 RESUBMISSION.**

Any request which has been denied wholly or in part by the Zoning Board of Appeals may not be resubmitted for a period of one (1) year from the date of the last denial. However, if new evidence or change conditions are found, the Board may elect to rehear a case.

**07 CONDITIONS.**

The Board of Appeals may attach any reasonable conditions to the approval of any request to secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate any Zoning Permit granted pursuant to the Zoning Board of Appeals action. When it attaches any conditions to the approval of a request, the Board of Appeals may require that a bond of ample sum be furnished to guarantee compliance with the conditions imposed. See Section 10.402.09

**08 ISSUANCE OF PERMIT.**

A variance or site plan approval granted under the provisions of this Section becomes a condition of the Zoning Permit granted pursuant to such action. If the Zoning Permit expires, any rights granted by the Zoning Board of Appeals expire together with the Zoning Permit.

**09 REQUIRED RECORDS.**

The minutes of the Zoning Board of Appeals meeting at which any decision was made regarding a variance, appeal, or interpretation must specify the reasoning used by the Board in making the decision, and any condition that may be attached to issuance of a Zoning Permit.

**10 RECURRENT ISSUES.**

If certain conditions are so widespread as to make similar variances a frequent issue for the Zoning Board of Appeals, the Board shall suggest a general regulation for such conditions to be considered by the Planning Commission.

**10.1550 PLANNING COMMISSION**

The LeRoy Township Board has by resolution 91405 (adopted 9/14/05), previously designated the Township Planning Commission (formerly called the “Planning Board”) to function in the capacity of the Township Zoning Commission (formerly called the “Zoning Board”) pursuant to Section 301 of the Zoning Act (MCL 125.3301). The Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance:

**01 SITE PLAN REVIEW.**

The Planning Commission shall review Site Plans and issue it’s approval, conditional approval or denial of same as provided by Sections 10.1606 through 10.1613 of this ordinance.

**02 SPECIAL EXEMPTION PERMITS.**

The Planning Commission shall review and conduct public hearings on applications for Special Exemption Permits as required by the Zoning Act and Article IV of this Ordinance. The Planning Commission shall act on said applications by approving, conditionally approving or denying same. The Planning Commission shall also take any necessary action to revoke a Special Use Permit as provided by Section 10.402 of this Ordinance.

**04 MULTIPLE USE, CLUSTER OR PLANNED UNIT DEVELOPMENTS**

The Planning Commission shall review plans and issue permits for multiple use, Cluster or Planned Unit Developments (PUD) as set forth in Section 10.1612 et seq of this Ordinance.

**05 REZONING OR AMENDMENT.**

The Planning Commission shall conduct a public hearing on proposals to rezone property or amend the text of this Ordinance as provided for by the Zoning Act. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the Township Board. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice and hearing, and also subject to Township Board approval.

**06 REVIEW.**

The Planning Commission shall review Land Use Plan and Map periodically and update them as necessary.

**ARTICLE XVI**

**10.1600 PERMITS AND CERTIFICATES OF OCCUPANCY**

**10.1601 PERMITS REQUIRED**

No structure shall be erected, altered, placed, set up, or excavation started until building and zoning permits for such erection or alteration shall have been issued by the County Building Inspector and the Township Zoning Administrator, respectively. Fees for such Township zoning permits shall be established by the Township Board.

**10.1602 CERTIFICATES OF OCCUPANCY**

It shall be unlawful to use or permit the use of any structure or part thereof hereafter created, located, erected, changed, converted or enlarged wholly or partly until a certificate of occupancy has been issued for that premises certifying that the structure or use complies with the provisions of this ordinance. Such occupancy permits shall be granted or denied by the County Building Inspector.

**10.1603 INSPECTIONS**

Prior to the issuance of such certificate of occupancy, the County Building Inspector shall be satisfied that the building erected or that the alterations done shall comply in all respects with the building and health laws and ordinances and the provisions of these regulations. It shall be the duty of the applicant for such certificate of occupancy or permit to furnish to the County Building Inspector such plans or other information as the County Building Inspector may require in order to be reasonably satisfied that the building erected or altered will so comply.

**10.1604 EXPIRATION OF PERMITS**

All permits shall expire 12 months from the date of issuance. The exterior construction of a building shall be completed within 12 months following issuance of the building and zoning



permits. No fee shall be required where the cost of remodeling, repairing or altering is less than \$2,000.00.

**10.1605 RENEWAL OF PERMITS**

All expired permits may be renewed for an additional one-year term at a fee of 50% of the original fee.

**10.1606 SITE PLAN REVIEW**

**01 PURPOSE**

The intent of this section is to provide for consultation and cooperation between the land developer and the Township Planning Commission in order that the developer may accomplish his objectives in the utilization of his land within the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

**02 SCOPE**

The Township Zoning Administrator shall not issue a permit for any construction or uses until a site plan, submitted in accordance with this section, shall have been reviewed and approved by the Planning Commission. The following uses are exempted from this requirement:

- (a) Single or two-family homes under separate ownership on an individual and separate lot for each home
- (b) Interior accessory and subordinate buildings requiring no new or additional means of access thereto from adjoining public roads or highways and complying with all zoning ordinance requirements
- (c) Projects involving the expansion, remodeling or enlargement of existing buildings which comply with all zoning ordinance

requirements and involve no new or additional means of access thereto from adjoining public roads or highways

- (d) Special exemption uses, buildings, structures, and multiple use developments, where site plan review shall be conducted under the standards controlling special exemption uses in addition to the standards contained in this Site Plan Review Section.

**10.1607      OPTIONAL SKETCH PLAN REVIEW**

Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final approval. The purpose of such procedure is to allow discussion between a developer and the Planning Commission to better inform the developer of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following information:

**01      DEVELOPER**

The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership

**02      PROPERTY**

A legal description of the property

**03      PLANS**

Sketch plans showing tentative site and development plans The Planning Commission shall not be bound by any tentative approval given at this time.

**10.1608 APPLICATION PROCEDURE**

Requests for final site plan review shall be made by filing with the Township Clerk the following:

**01 FEE**

A review fee as determined by resolution of the Township Board based upon the cost of processing the review and as shall be on file with the Township Clerk for public information.

**02 APPLICATION**

Seven copies of the completed application form for site plan review which shall contain as a minimum the following:

- (a) the name and address of applicant
- (b) the legal description of the subject parcel of land
- (c) the area of the subject parcel of land stated in acres or, if less than an acre, in square feet
- (d) the present zoning classification of the subject parcel
- (e) a general description of the proposed development

**03 SITE PLAN**

Seven copies of the proposed site plan which shall include as a minimum the following:

- (a) A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer;
- (b) the topography of the site and its relationship to adjoining land;
- (c) existing man-made features, dimensions of setbacks, locations, heights and size of structures and other important features;
- (d) percentage of land covered by buildings and that reserved for open space;

- (e) dwelling unit density where pertinent;
- (f) the location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the site;
- (g) curb-cuts, driving lanes, parking and loading areas;
- (h) location and type of drainage, sanitary sewers, storm sewers, and other facilities;
- (i) fences, landscaping and screening;
- (j) proposed earth changes and environmental impact of the project;
- (k) signs and on-site illumination;
- (l) any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be demanded by the Township Zoning Administrator and County Building Inspector or the Planning Commission.

**10.1609 ACTION ON APPLICATION AND PLANS**

Upon receipt of the application and plans, the Township Clerk shall record the date of the receipt thereof and transmit four copies thereof to the chairman of the Planning Commission and one copy to the Township Zoning Administrator.

**01 REVIEW; HEARING**

The Planning Commission shall review the application and plans as well as the recommendations of the Township Zoning Administrator with regard thereto. Members of the Planning Commission shall be delivered copies of the same prior to the hearing for their preliminary information and study. If requested by any property owner or the occupant of any structure located within 300 feet of the property, or at the discretion of the Chairman of the Planning Commission, a public hearing may be scheduled on the application.

**02 NOTICE**

The applicant shall be notified of the date, time and place of the hearing on his application as set forth in Section 10.402 of this Ordinance.

**03 DECISION**

Following the hearing, the Planning Commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of the Township Zoning Ordinance and criteria therein contained. Any required modification or alteration shall be stated in writing, together with the reasons therefor, and delivered to the applicant. The Planning Commission may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the same have been included in the proposed plans for the applicant. The decision of the Planning Commission shall be made within 100 days of the receipt of the application by the Township Clerk.

**05 RECORD**

Two copies of the approved final site plan with any required modifications thereon shall be maintained as part of the township records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the chairman of the Planning Commission for identification of the finally approved plans. If any variances from the zoning ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variance, duly signed, shall also be filed with the township records as a part of the site plan and delivered to the applicant for his information and direction.

**05 CRITERIA FOR REVIEW**

In reviewing the application and site plan and approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:

- (a) That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to assure the safety and convenience of pedestrian and vehicular traffic.
- (b) That the buildings, structures and entryways thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects therefrom upon owners and occupants of adjacent properties and the neighborhood.
- (c) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- (d) That any adverse effects of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping.
- (e) That all provisions of the Township Zoning Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
- (f) That all buildings and structures are accessible to emergency vehicles.
- (g) That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety, morals and general

welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses and the general and appropriate trend and character of land, building and population development.

**10.1610 CONFORMITY TO APPROVED SITE PLAN**

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the approval thereof shall be forthwith revoked by the Township Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application of the developer and after a hearing, approve a modification in the site plan to coincide with the developer's construction provided such construction complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the Township Zoning Ordinance. Approval of the site plan shall be valid for a period of one year after the date of approval. If permits required under this ordinance have not been obtained and on-site

development actually commenced within said one year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval shall be required and obtained before any construction or earth change is commenced upon the site.

**10.1611 AMENDMENT TO SITE PLAN**

A proposed amendment, modification or alteration to a previously approved site plan shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

**10.1612 MULTIPLE USE, CLUSTER OR PLANNED UNIT DEVELOPMENTS**

**01 SPECIAL EXEMPTION USE**

A multiple use, Cluster or Planned Unit Development (PUD) shall be recognized as a special exemption use and controlled by the guidelines thereof. Control of such developments shall be the responsibility of the Township Planning Commission.

**02 PURPOSE**

The purpose of these regulations is to permit greater flexibility and consequently, more creative and imaginative design in the development of residential areas than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, the integration of necessary commercial and community facilities and the preservation of open space for park and recreational use. A permit may be issued for construction and occupancy of a multiple use development subject to compliance with the requirements, standards and procedures set forth in this ordinance.



**03 GENERAL REQUIREMENTS FOR MULTIPLE USE DEVELOPMENTS**

Any application for a special exemption permit must meet the following conditions to qualify for consideration as multiple use development:

**(a) Minimum area**

The minimum area required to qualify for a multiple use development special exemption permit shall not be less than 10 contiguous acres of land.

**(b) Ownership**

The tract of land for a project must be either in one ownership or the subject of an application filed jointly by the owners of all properties included (the holder of a written option to purchase land or the holder of an executory land contract shall, for purposes of such application, be deemed to be an owner of such land.)

**(c) Location**

Multiple use developments shall be allowed in any district provided the applicant can demonstrate that the proposed character of development will meet the objectives of multiple use developments.

**(d) Utilities**

Public water, sanitary sewer and storm drainage facilities shall be provided as part of the site development. All electric and phone transmission wires shall be placed underground.

**(e) Approval**

Approval by the Planning Commission of a sketch plan and detailed site plan for all multiple use developments is required.

#### **04 PERMITTED USES**

No structure or part thereof shall be erected, altered or used and no land shall be used except for one or more of the following regardless of the zoning district in which the same is located:

##### **(a) Residential Uses**

1. single-family detached dwellings, excluding mobile homes and modulars
2. two-family dwellings
3. apartments
4. townhouses
5. condominiums
6. other multi-family dwellings

##### **(b) Commercial Uses**

Uses designed and intended to serve the convenience needs of the people residing in the Multiple Use Development:

1. food stores
2. bakeries (retail only)
3. barber or beauty shops
4. banks and financial institutions
5. retail sales stores
6. dry cleaning (pickup or coin operated only)
7. offices
8. drug stores
9. post office
10. full course menu, table top, indoor restaurants conforming in appearance to a residence; providing no “drive-in”, “short-order” or “car service” food or drink facility; and

where any alcoholic beverages served are incidental to the sale of food

11. private clubs, excepting those of which the chief activity is a service customarily carried on as a business

**(c) Accessory and Associated Uses**

Uses designed and intended to serve the convenience needs of the people residing in the Multiple Use Development:

1. private garages
2. storage sheds
3. recreational play areas
4. churches
5. elementary and secondary schools
6. Recycling centers

**05 DESIGN REQUIREMENTS**

Within the multiple use development approved under this section, the requirements hereinafter set forth shall apply in lieu of any conflicting regulations set forth in the district in which the development is located:

- (a) Number of Dwelling Units Permitted: the maximum number of dwelling units permitted within the project shall be determined by dividing the net multiple use development area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately.
- (b) Lot Area Requirements: the minimum lot area shall not be reduced by any permitted use more than ten percent (10%) below that required in the district in which the project is located.

- (c) Setback and Yards: the minimum setback and yard or open space requirements for buildings and structures may be reduced or increased by a variance granted in the discretion of the Zoning Board of Appeals. Such variances may be granted only to avoid unnecessary disruption of the environment, where reasonably equivalent open space is provided elsewhere upon the site, where no adjacent property owner is adversely affected thereby, and where the spirit and purpose of this zoning ordinance is still observed.
- (d) Minimum Lot Frontage and Width: the minimum lot frontage and width for any lot designated for single-family dwelling may be reduced 10% below the requirements of the district in which the multiple use development is located.
- (e) Screening: a screening area may be required by the Planning Commission along the perimeter of the development if deemed necessary to protect the values of adjoining property under separate ownership.
- (f) Amount of Open Space Required: within every multiple use development there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole. Before accepting the open space as meeting the requirements of this provision, the Planning Commission must find:
  - 1. That the land designated is sufficient in size, suitably located, with adequate access, and

2. Evidence that satisfactory arrangements will be made for the maintenance of such designated land to relieve the municipality of future maintenance thereof.
- (g) Arrangement of Open Space: all required open space within a multiple use development shall be arranged so as to provide access and benefit to the maximum number of lots and/or dwelling units. Separate tracts of open space shall have adequate access from at least one point along a public street.

## **6 APPLICATION PROCEDURE AND APPROVAL PROCESS**

Whenever any multiple use development is proposed, before any building permit is granted, the developer shall apply for and secure approval of a Special Exemption Use permit in accordance with the following procedures, and obtain approval of a detailed site plan from the Planning Commission.

- (a) Application for Sketch Plan Approval: In order to allow the Planning Commission and the developer to reach an understanding of basic design requirements prior to detailed site design investment, the developer shall submit a sketch plan of his proposal to the Planning Commission. The sketch plan shall be drawn to approximate scale and clearly show the following information:
1. boundaries of the property
  2. location and height of all buildings
  3. interior roadway systems, parking facilities and all existing rights-of-way and easements, whether public or private
  4. delineation of the various residential and/or commercial areas indicating for each such area its size, number of buildings and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type, plus

a calculation of the net residential density and commercial density

5. the interior open space system
6. the overall storm water drainage system
7. if grades exceed 20% of portions of the site, have slope lengths over 100 feet and have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and/or ponding, an overlay outlining the above susceptible soil shall be approved
8. principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal
9. general description of the provision of other community facilities, such as schools, recreational facilities, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated
10. a location map showing uses and ownership of abutting lands.

(b) Additional Required Documentation: In addition, the following documentation shall accompany the Sketch Plan:

1. Evidence that the proposal is compatible with the objectives of the community's plan
2. General statement as to how common open space is to be owned and maintained
3. The Sketch Plan shall show the intended total project. If the development is to be constructed in phases, a general indication of how the sequence of phases is to proceed shall be identified.

- (c) Public Hearing: The Planning Commission may hold a public hearing on the application for multiple use development in accordance with the provisions of the ordinance for hearings on Special Exemption Uses.
- (d) Decision: The Planning Commission shall, within 60 days of the receipt of the application or a public hearing, whichever is later, approve or disapprove the Sketch Plan or make modifications thereto and so notify the applicant of its decision. The Planning Commission shall prepare a report stating its conclusions on the application, the basis for its decision, the decision and any conditions relating to an affirmative decision.
- (e) Approval of Sketch Plan: Approval of the Sketch Plan shall not constitute approval of the detailed site plan but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan.
- (f) Request for changes in Sketch Plan: If it becomes apparent that certain elements of the Sketch Plan, as it has been approved by the Planning Commission, become unfeasible and in need of modification, the applicant shall then resubmit his entire Sketch Plan, as amended, to the Planning Commission pursuant to the above procedures.
- (g) Application for Detailed Site Plan Approval:
  - 1. After receiving approval from the Planning Commission of a Sketch Plan, the applicant may prepare his detailed site plan and submit it to the Planning Commission for approval. However, if more than 6 months has elapsed between the time of Sketch Plan approval the Planning Commission may

require a resubmission of the Sketch Plan for further review and possible revision.

2. The detailed site plan shall conform to the Sketch Plan that has been given approval. It should incorporate any revisions or other features that may have been recommended by the Planning Commission at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
3. The detailed Site Plan shall include the following information:
  - i. an area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets, utilities, and easements within 300 feet of applicant's property
  - ii. a topographic map showing contour intervals of not more than 4 feet of elevation shall be provided
  - iii. a site plan showing location, proposed use, and height of all buildings, location of all parking areas, with access and egress drives thereto, location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and design of lighting facilities; and the amount of building area proposed for non-residential uses, if any



- iv. a tracing overlay showing all soil types, their location, and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.
- (h) Required Standards for Approval: The Planning Commission's review of the detailed Site Plan shall include the following:
1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls and pedestrian movement
  2. Location, arrangement, appearance, and sufficiency of off-street parking
  3. Location, arrangement, size and entrances of buildings, walkways and lighting
  4. Relationships of the various uses to one another
  5. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise deterring screen between adjacent uses and adjoining lands
  6. In the case of residential uses, the adequacy of useable open space for playgrounds and recreation
  7. Adequacy of water supply, storm water and sanitary waste disposal facilities
  8. Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion
  9. Compliance with all regulations of the Township Zoning Ordinance

10. Compatibility of adjoining uses on and off the site and preservation thereof.

- (i) Action on the Detailed Site Plan: The Planning Commission shall render its approval or disapproval and so notify the applicant and the Township Zoning Administrator.
- (j) Revocation: In any case where construction has not commenced within two years from the date of approval, the special exemption use permit shall be null and void.

**10.1613 EFFECT OF APPROVAL**

After a detailed site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.

**ARTICLE XVII**

**10.1700 ENFORCEMENT**

**10.1701 ENFORCEMENT OFFICIAL**

The provisions of this ordinance shall be enforced by the LeRoy Township Zoning Administrator or such other authorized local official as may from time to time be designated by resolution of the Township Board. The enforcement official shall have the powers and duties as set forth below.

**10.1702 ZONING ADMINISTRATOR**

The Township Board, with the recommendation of the Planning Commission, may employ a Zoning Administrator to carry out day-to-day administration and enforcement of this

Ordinance. Conditions of the Zoning Administrator's employment, including compensation, shall be established by the Township Board. Additional staff may be employed, under the supervision of the Zoning Administrator, to assist with administration and enforcement of this Ordinance.

**10.1703 DUTIES**

The Zoning Administrator's duties shall include the following items and any other tasks that may be assigned by the Township Board or provisions of this Ordinance:

**01 ACCEPT AND RECORD APPLICATIONS, ISSUE AND RECORD PERMITS.**

All applications for Zoning Permits shall be submitted to the Zoning Administrator who shall keep a record of them and their disposition. When all applicable provisions of this Ordinance have been met regarding any application, the Zoning Administrator shall issue a Zoning Permit for the proposed use. When conditions are not met, the Zoning Administrator shall consult with the applicant regarding a further course of action. The Zoning Administrator shall maintain a record of all applications, related documentation and resulting Zoning Permits.

**02 ISSUE WRITTEN DENIAL.**

When any application for a Zoning Permit is denied, the Zoning Administrator shall provide the applicant a written denial, stating the reasons for the denial.

**03 NOTICE OF HEARINGS.**

Whenever a Zoning matter is the subject of a public hearing before the Planning Commission or the Zoning Board of Appeals, the Zoning Administrator shall prepare and disseminate hearing notices as required by this Ordinance.

**04 INSPECTIONS.**

the Zoning Administrator may make inspections of any building or parcel as necessary to enforce this Ordinance. Entry onto private property must be by consent of the owner or occupant or by a properly issued administrative search warrant.

**05 RECORD NONCONFORMING USES.**

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Article VI.

**06 RECORD SPECIAL USES.**

The Zoning Administrator shall keep a record of all Special Use Permits issued under the terms of this Ordinance for the purpose of carrying out provisions of Article IV.

**07 RECORD INTERPRETATIONS OF ORDINANCE.**

The Zoning Administrator shall maintain a concise record of all interpretations of this Ordinance rendered by the Zoning Board of Appeals under Article V. This record shall be consulted whenever interpretation questions arise to determine whether any applicable precedents have been set.

**08 PUBLIC INFORMATION.**

The Zoning Administrator shall respond to inquiries and dispense information or copies of this Ordinance to help the public understand the provisions of this Ordinance. Public awareness and acceptance of this Ordinance should help to maintain compliance with it.

**09 RESPOND TO COMPLAINTS.**

The Zoning Administrator shall timely respond to any complaint alleging a violation of the terms or conditions of this Ordinance or of any permit issued pursuant to it. The Zoning Administrator shall summarize the nature and disposition of recent complaints at each regular Planning Commission meeting.

**10 NOTICES OF VIOLATIONS; CITATIONS.**

The Zoning Administrator is authorized to issue notices of violations and citations for violations of this Ordinance which are Municipal Civil Infractions.

**11 INTERPRETATION.**

The Zoning Administrator is authorized to interpret the plain meaning of this Ordinance in the first instance. Any such interpretation is subject to review on appeal by an aggrieved person to the Zoning Board of Appeals. However, under no circumstances may the Zoning Administrator's interpretations make

substantive changes in the Ordinance or in any way vary the terms of this Ordinance.

## **ARTICLE XVIII**

### **10.18000 FEES**

#### **10.1801 AUTHORITY TO SET FEES**

The Township Board is hereby authorized to establish by resolution, fees for application for amendments to this Zoning Ordinance (rezoning), for appeals or applications to the Zoning Board of Appeals, for applications to the Planning Commission for Special Land Use or Multiple Use Development permits and site plan reviews. These fees are to be paid to the Township with such applications or appeals to help defray the cost to the township of such proceedings. Such fees may be amended from time to time by resolution of the Township Board, at their discretion.

## **ARTICLE XIX**

### **10.1900 VIOLATIONS AND SANCTIONS**

#### **10.1901 NUISANCE PER SE, MUNICIPAL CIVIL INFRACTIONS**

A use of land, or a dwelling or building or structure, used erected, altered, razed or converted in violation of this ordinance is a nuisance per se. Any person who violates any of the provisions of this Ordinance or any permit, license or exemption granted hereunder, or any lawful order of the zoning enforcement officer, Planning Commission, Zoning Board of Appeals, or the Township Board issued under this Ordinance is responsible for a Municipal Civil Infraction as defined by Michigan Law. In addition or as an alternative to enforcing this Ordinance as a municipal civil infraction, the Township may, at its discretion, initiate proceedings in Circuit Court to abate or eliminate the nuisance per se and any other violation of this Ordinance.

**10.1902 FINES**

An adjudication or admission of responsibility shall subject the violator to a fine determined in accordance with the following schedule:

<b>VIOLATION</b>	<b>MAXIMUM FINE</b>	<b>MIMINUM FINE</b>
1 <sup>st</sup> violation within 3 year period*	\$500.00	\$ 50.00
2 <sup>nd</sup> violation within 3 year period*	\$500.00	\$125.00
3 <sup>rd</sup> violation within 3 year period*	\$400.00	\$250.00
4 <sup>th</sup> or subsequent violation within 3 year period*	\$500.00	\$500.00

\*determined on the basis of the date of the violation

**10.1903 COSTS**

Additionally, the violator shall pay costs, which may include all direct or indirect expenses, (including reasonable attorney) fees to which the Township has been put in connection with abatement of the violation.

**10.1904 EACH DAY A SEPARATE VIOLATION, NON-COMPLIANCE NOT EXCUSED**

Each day a violation continues to exist constitutes a separate violation. The imposition or payment of any fine shall not exempt an offender from compliance with the provisions of this ordinance.

**10.1905 OTHER REMEDIES NOT WAIVED**

The foregoing sanctions shall not prohibit the Township from seeking injunctive relief against a violator for abatement of nuisance or such other relief or remedies as may be provided by law or in equity.

## **ARTICLE XX**

### **10.2000      VALIDITY**

#### **10.2001      SEVERABILITY**

Should any section, subsection, clause or provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance in its entirety or of any part thereof, other than the portion so declared to be invalid.

#### **10.2002      CONFLICT WITH OTHER ORDINANCES**

Should any provision of this Ordinance be in conflict with provision(s) any other Township ordinance or ordinances in effect at the time of this Ordinance's adoption, the provisions of this Ordinance shall prevail.

## **ARTICLE XXI**

### **10.2100      AMENDMENTS AND SUPPLEMENTS**

Amendments and supplements to this Ordinance may be adopted as provided by law.

## **ARTICLE XXII**

### **10.2201      EFFECTIVE DATE**

Following adoption as required by law, this Ordinance shall take immediate effect upon its publication in a newspaper of general circulation in the Township.

### **10.2202      PRIOR ZONING ORDINANCE REPEALED**

The LeRoy Township Zoning Ordinance (updated or revised from July 13, 1998 Plan), adopted February 9, 2005, is hereby repealed effective upon the effective date of this Ordinance.

**TOWNSHIP OF LEROY  
OSCEOLA COUNTY  
STATE OF MICHIGAN**

**ORDINANCE AMENDING THE LEROY TOWNSHIP  
ZONING ORDINANCE BY REMOVING R-1 AND R-2  
USES AS PERMITTED USES IN THE COMMERCIAL  
ZONING DISTRICT**

WHEREAS, LeRoy Township adopted the LeRoy Township Zoning Ordinance pursuant to the Michigan Zoning Enabling Act, and listed permitted uses in the “C-1” Commercial & Light Industrial District that included “apartment houses” and “All uses permitted of right in the R1 and R2 districts,” and

WHEREAS, planning and development problems arose from the R1 and R2 permitted uses allowing a dwelling to be constructed in the “C-1” Commercial & Light Industrial District, and

WHEREAS, the Planning Commission investigated an amendment to the LeRoy Township Zoning Ordinance that would delete “apartment houses” and “All uses permitted of right in the R1 and R2 districts” from the list of permitted uses in Section 10.304.02 of the Zoning Ordinance, and

WHEREAS, the Planning Commission published a public notice of a public hearing that was held on May 20, 2021, to discuss restricting residential uses in the C-1 Commercial & Light Industrial District, and the Planning Commission conducted the public hearing on May 20, 2021, and

WHEREAS, the Planning Commission transmitted a summary of comments received at the public hearing on the proposed Zoning Ordinance amendment and a recommendation to adopt the amendment to the Township Board, and

WHEREAS, the Township Board determines that no additional public hearing on the Zoning Ordinance amendment is necessary or otherwise required, and no interested property owner requested a public hearing on the Zoning Ordinance amendment before the Township Board, and

WHEREAS, the Planning Commission recommended that the Zoning Ordinance be amended by deleting the residential uses from the list of permitted uses in the C-1 Commercial & Light Industrial District,

NOW, THEREFORE, THE LEROY TOWNSHIP BOARD ORDAINS:



Section 1. Section 10.304 currently includes in part:

O2 PERMITTED USES

- (h) Hotels, motels, and apartment houses
- (r) All uses permitted of right in the R1 and R2 districts.

Section 2. Section 10.304 is amended by deleting “apartment houses” from subsection (h) and by deleting subsection (r) in its entirety.

O2 PERMITTED USES

- (h) Hotels, motels ~~and apartment houses~~
- ~~(r) All uses permitted of right in the R1 and R2 districts.~~

Section 3. All other sections and subsections of Section 10.304 and all other subsections under O2 PERMITTED USES remain the same and in full force and effect.

Section 4. This Zoning Ordinance amendment shall become effective 7 days after publication in a newspaper of general circulation within 15 days after adoption by the Township Board, with the following notice:

LeRoy Township  
Osceola County

A Zoning Ordinance amendment regulating the development and use of land has been adopted by the legislative body of LeRoy Township, Osceola County, Michigan, which will be effective 7 days after publication in the newspaper, and a copy of this Zoning Ordinance amendment may be purchased, inspected, or otherwise obtained from the office of the Township Clerk, 101 Bevins Street, LeRoy, MI 49655, 231-912-1522, by appointment.

This Ordinance was moved by \_\_\_\_\_, and supported by \_\_\_\_\_.

Yeas:

Nays:

The Supervisor declared the Ordinance was \_\_\_\_\_ adopted \_\_\_\_\_ not adopted, on this \_\_\_\_\_ day of August, 2021.