

POLKTON CHARTER TOWNSHIP

ZONING ORDINANCE

(Including Amendments adopted through May 7, 2020)

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CHAPTER 1
TITLE

SECTION 1.01 TITLE.

This Ordinance shall be known and may be cited as the “Polkton Township Zoning Ordinance.”

**CHAPTER 2
PURPOSE, SCOPE AND LEGAL BASIS**

SECTION 2.01 PURPOSE.

This Ordinance is based upon the Polkton Township Land Use Plan and is designed (1) to promote the public health, safety, morals and general welfare, (2) to encourage the use of land in accordance with its character and adaptability, and limit the improper use of land, (3) to avoid the overcrowding of population, (4) to provide adequate light and air, (5) to lessen congestion on the public roads and streets, (6) to reduce hazards to life and property, (7) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and (8) to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

SECTION 2.02 SCOPE AND INTERPRETATION.

This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Township is a party. Where this Ordinance imposes greater restrictions, limitations or requirements upon (1) the use of buildings, structures or land, (2) the height of buildings or structures, (3) lot coverage, (4) lot areas, (5) yards or other open spaces or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of the ordinance shall control.

SECTION 2.03 LEGAL BASIS. (Section 2.03 amended by Ord. No. 06-65.)

This Ordinance was originally enacted pursuant to Public Act 184 of 1943, as amended. On and after July 1, 2006, this Ordinance remains in effect pursuant to Public Act 110 of 2006, as it may be amended from time to time, known as the Michigan Zoning Enabling Act.

CHAPTER 3 DEFINITIONS

SECTION 3.01 RULES APPLYING TO TEXT.

The following listed rules of construction apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. With the exception of this chapter, the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Unless the context clearly indicates to the contrary: (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- E. A “building” or “structure” includes any part thereof.
- F. The word “person” includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.
- G. The words “used” or “occupied,” as applied to any land or building, shall be construed to include the words “intended,” “arranged,” or “designed to be used,” or “occupied.”
- H. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

SECTION 3.02 DEFINITIONS. (Numbers Repealed and Definitions Reorganized by Ord. No. 08-71)

The following listed terms and words are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

A. **Definitions A-C.**

A-Weighted Sound Level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Accessory Use or Structure. A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure on the same lot. Without limitation of the foregoing definition of an accessory building, the following buildings shall be considered to be accessory buildings: customary private garages; residential storage buildings; boat houses; greenhouses; customary play houses;

pool equipment and storage buildings; and pump houses. An “agricultural building,” as defined in this Ordinance, shall be treated as an accessory building if the principal use of the land on which it is located is agricultural purposes.

Adult Foster Care Home. A facility licensed under Michigan Act 218 of 1979, as amended, or other similar successor statute having similar licensing jurisdiction, as well as any other facility of substantially similar character and purpose.

Agricultural or Agricultural Purposes. “Agricultural” or “agricultural purposes” means of, or pertaining to, or connected with, or engaged in agriculture or tillage which is characterized by the act or business of cultivating or using land and soil for the production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

Agricultural Building. A building that is designed, constructed and used only to store farm implements, hay, grain and/or other horticultural products, or used for the storage, care and feeding of poultry and/or livestock. It shall not be a place of human habitation, or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a place used by, or open to, the public. This definition is and shall be construed as being consistent with the definition of “agricultural building,” as stated in the Michigan Building Code.

Agricultural Tourism. The practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation. **(Added by Ord. No. 85-11.)**

Agriculturally Related Product. A product sold at a farm market to attract customers and to promote the sale of agricultural products. Such items include, but are not limited to, all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting the farm and agriculture in Michigan. **(Added by Ord. No. 85-11.)**

Agriculturally Related Use. A use that predominantly utilizes agricultural products, buildings or equipment, such as pony rides, corn mazes, pumpkin rolling, barn dances, sleigh/hay rides, and educational events, such as farming and food preserving classes, and other similar uses. **(Added by Ord. No. 85-11.)**

Alterations, Structural. Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure of building.

Ambient Sound Level. The amount of background noise at a given location prior to the installation of a WET(s) which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient

sound level is to be measured on the dB(A) weighted scale, as defined by the American National Standards Institute. **(Added by Ord. No. 09-76.)**

Anemometer. A temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. **(Added by Ord. No. 09-76.)**

Automobile Repair – Major. General repair, rebuilding, or reconditioning of engines, or vehicles, collision service (including body repair and frame straightening), painting or upholstery, or vehicle steam cleaning and undercoating.

Automobile Repair - Minor. Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two tons capacity; provided, however, there is excluded any repair work included in the definition of “Automobile repair – Major.”

Basement. A portion of a building, or a portion of a room, located wholly or partially below grade, but not including any part thereof not so located.

Billboards and Signs. (Repealed by Ord. No. 101-17)

Building. Anything which is constructed or erected, including a mobile home, having a roof supported by columns, wall, or other supports, which is used for the purpose of housing or storing of persons, animals, or personal property or carrying on business activities or other similar uses.

Building Height. The vertical distance measured from the top of a main or ground level foundation wall, whichever is lowest, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs.

Building Setback. The measurement from the property line to the nearest point of the main wall of the building or structure; provided, however, that where the property line is within a street right-of-way, such measurement shall be from the nearest street right-of-way line, rather than the property line. Steps may be located within the building setback. Porches, decks, and similar structures are considered as part of the building or structure and shall not be located within the building setback.

Building Site. In the context of a site condominium project, building site is the functional equivalent of a “lot” and is that portion(s) of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the project’s master deed. Building site may be further defined as:

- A. A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as required by the Polkton Township Zoning Ordinance as amended, or
- B. The contiguous limited common element under and surrounding a condominium unit or units that is or will be assigned to the owner(s) of the condominium units) for the owner(s) exclusive use and which, together with the condominium unit meets the minimum area yard requirements for lots as required by the Polkton Township Zoning Ordinance.

Common Open Space. Any area or space other than required yard areas which is unobstructed and unoccupied by buildings, structures, roads, or other man-made objects and is readily accessible to all those for whom it is required.

Condominium Project. Means a plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978.)

Condominium Structure. The principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g., in a residential development, the condominium structure would refer to the house and any attached garage. A “Condominium Structure” can also be a “Building Envelope.”

Condominium Subdivision Plan. The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium project, as well as the nature, location and size of common elements.

Condominium Subdivision (Site Condominium). A division of land interest on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.

Condominium Unit. That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business or recreational use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure. The term “condominium unit” may, in certain instances, be equivalent to the term “lot,” for purposes of determining compliance of a condominium subdivision with provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio. (ref. Building Site.)

Construction. Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private right-of-way, structures, utilities, or similar property.

Corner Lot. A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the streets is 135 degrees or less or a lot abutting upon a curved street or streets if tangents to the curve, at the two points where the lot lines meet the curve, form an interior angle of 135 degrees or less.

B. Definitions D-K.

Decibel (dB). A unit for measuring the volume of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

Decommissioning. The process of terminating the operation of, and completely removing, a WET(s) and all related buildings, structures, foundations, access roads, and equipment. **(Added by Ord. No. 09-76.)**

Demolition. Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

Digital Billboard. (Repealed by Ord. No. 101-17.)

Digital Sign. (Repealed by Ord. No. 101-17.)

Dish Antenna. A parabolic type antenna designed to receive radio, television, or microwave communication signals and which may be of solid (totally opaque), transparent, or mesh type construction.

Dwelling. Any building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one or more families, but not including motels, hotels, tourist rooms or cabins, or mobile homes.

A. **Dwelling, Single Family.** A building designed for use and occupancy by one family only.

B. **Dwelling, Two-Family.** A building designed for use and occupancy by two families only.

C. **Dwelling, Multi-Family.** A building designed for use and occupancy by three or more families.

Dwelling Unit. One room or suite of two or more rooms designed for use or occupancy by one family for living and sleeping purpose with housekeeping facilities.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency Work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage which demands immediate action.

Essential Services. Buildings, structures and other facilities that are reasonably necessary for the furnishing of adequate public services for the public health, safety, or general welfare by a public utility or by a governmental unit, board or commission, including overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith. This term does not include solar energy farms or solar facilities, wind energy turbines, or wireless communication facilities. **(Added by Ord. No. 110-20, eff. May 26, 2020.)**

Family.

- A. An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants or domiciled together as a single, domestic housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single non-profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, halfway house, lodge, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

Farm. The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products. **(Amended by Ord. No. 85-11.)**

Farm, Affiliated. A farm under the same ownership or control (e.g., leased) as an affiliated roadside stand or farm market, but the roadside stand, market or facility does not have to be located on the same property where the production of its products occurs, provided that it is located in a zoning district where such use is permitted by this Ordinance. **(Added by Ord. No. 85-11.)**

Farm Market. The area of a farm operation where commercial transactions between a farm market operator and retail customers take place. It may include a permanent or temporary structure(s), or combinations of both. At least 50 percent of the products marketed and offered for sale at a farm market (as measured over a five-year timeframe) must be produced on and by the market's affiliated farm. A farm market may operate seasonally or year-round, and may include marketing activities to attract customers and facilitate retail trade business transactions, but only in a manner consistent with this Ordinance. This definition shall be interpreted in a manner that is consistent with *Generally Accepted Agricultural and Managements Practices for Farm Markets*, as promulgated by the Michigan Department of Agriculture. **(Amended by Ord. No. 85-11.)**

Farm Product. Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae (deer, elk, moose, etc.), livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture. **(Added by Ord. No. 85-11.)**

Farm Product, Processed. A farm product or commodity that has been processed, in accordance with state and federal laws, to convert it into a value-added product that is more marketable for direct sales. Processing may include packing, washing, cleaning, grading, sorting, pitting, pressing, fermenting, distilling, packaging, cooling, storage, canning, drying, freezing, or otherwise preparing the product for sale. **(Added by Ord. No. 85-11.)**

Farm Product, Value-Added. A farm product that has been enhanced or improved or has had its overall value increased through marketing, processing, packaging, educational presentation, or tourism, or any combination thereof. **(Added by Ord. No. 85-11.)**

Floor Area. The gross floor area of all floors of a building or an addition to an existing building. For all office buildings or for any other building, except dwelling units, where the principal use thereof shall include the basement, the basement floor area shall be included except that part thereof which contains heating and cooling equipment and other basic utilities.

General Rules. The General Rules of the Michigan Department of Community Health, issued in connection with the MMMA. **(Added by Ord. No. 84-11.)**

Generally Accepted Agricultural and Management Practices (“GAAMPs”). The practices for farms and farm operations, as developed and promulgated by the Michigan Department of Agriculture under the authority of the Michigan Right to Farm Act, Act 93 of 1981, as amended, MCL 286.471, *et seq.* There are separate GAAMPs for the following subjects: Manure Management/Utilization; Pesticide Utilization/Pest Control; Nutrient Utilization; Care of Farm Animals; Cranberry Production; Site Selection/Odor Control for New and Expanding Livestock Facilities; Irrigation Water Use; and, Farm Markets. **(Added by Ord. No. 99-15, eff. June 28, 2015.)**

Gross Usable Acre. The total area per acre in any PUD District which is suitable for development (i.e., excluding areas of swamps, steep slopes, or other natural or man-made limitations which preclude or limit development).

Gross Vehicle Weight Rating (GVWR). The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR) which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Home Based Business. An occupation or business of limited scope and impact that is located on a parcel of land being used for residential purposes and which is (a) incidental to a person’s ownership of property and is clearly subordinate and secondary to the use of such property for residential purposes, (b) is operated by one or more permanent residents of the dwelling on the property, and (c) is not considered an industrial or commercial use when considered in conjunction with the overall residential use of the same property. **(Amended by Ord. No. 83-11.)**

Intensive Livestock Operation. Any livestock production facility that requires approval by the Michigan Department of Agriculture (“MDA”) under the Site Review and Verification Process specified in “Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Production Facilities,” as promulgated by the MDA in July 2003. This includes the following livestock production facilities:

- A. A livestock production facility that contains 500 to 749 animal units and which is within a distance of 1/4-mile of any existing non-farm residence; and
- B. A livestock production facility that contains 750 or more animal units and which is within a distance of 1/2-mile of any existing non-farm residence.

Animal unit equivalents are to be determined in accordance with the following table, as determined by the MDA in its July 2003 publication entitled “Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Production Facilities”:

Animal Units	50	250	500	750	1,000
Animal Type¹	Number of Animals				
Slaughter and Feeder Cattle	50	250	500	750	1,000
Mature Dairy Cattle	35	175	350	525	700
Swine ²	125	625	1,250	1,875	2,500
Sheep and Lambs	500	2,500	5,000	7,500	10,000
Horses	25	125	250	375	500
Turkeys	2,750	13,750	27,500	41,250	55,000
Laying Hens or Broilers	5,000	25,000	50,000	75,000	100,000

¹All other animal classes or types or sizes (e.g. nursery pigs) not in this table, but defined in the Michigan Right to Farm Act or described in Michigan Commission of Agriculture Policy, are to be calculated as one thousand pounds live weight equals one animal unit.

²Weighing over 55 pounds.

Impulsive Sound. Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include but are not limited to explosions, drop forge impacts, bird controlling devices (clackers), and the discharge of firearms.

Junkyard. A place where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including wrecked vehicles,

used building materials, structural steel materials and equipment, and other manufactured goods that are worn, deteriorated, or obsolete.

Kennel. Any land, building or structure where five or more cats and/or dogs are boarded, housed, or bred.

C. **Definitions L-Q.**

Large Wind Energy Turbine (LWET). A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system; and which has a nameplate above 250 kilowatts; and the main purpose of which is to supply electricity to off-site customers. **(Added by Ord. No. 09-76.)**

Lot. A parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a building site as defined herein as relating to a condominium subdivision having frontage upon a public or private street and having sufficient size to comply with the requirements of this Ordinance for minimum area, setbacks, coverage and open space.

Lot and Lot Width. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory structures, or utilized for a principal use and accessory uses, together with such open spaces as are required by this Ordinance. Minimum lot width shall be measured and maintained at the lot's frontage with the public or private street right-of-way or easement, and shall also be measured and maintained from the minimum front yard setback line to the minimum rear yard setback line. **(Amended by Ord. No. 81-2010.)**

MMMA. The Michigan Medical Marihuana Act; Public Act 2008, Initiated Law 1, as amended. **(Added by Ord. No. 84-11.)**

Master Deed. The document recorded as part of a condominium project to which are attached as exhibits and incorporated by reference the approved by-laws for the project and the condominium plan for the project.

Marihuana. Also known as Marijuana, also known as Cannabis; shall have the meaning given to it in section 7601 of the Michigan Public Health Code, Public Act 368 of 1978, MCL 333.7105, as referred to in section 3(d) of the MMMA, MCL 333.26423(d). Any other term pertaining to Marihuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the MMMA or in the General Rules. **(Added by Ord. No. 84-11.)**

Marina. A place where any one or more of the following conditions exist: (a) a commercial enterprise is operated for the sale, service or storage of boats or other watercraft, or (b) a dock and/or mooring is extended into or over an inland lake or stream for use by the public, and/or land, condominium or dock owners and more than four boats will be moored at any one dock and/or more than four moorings will be located.

Medical Use of Marihuana. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of Marihuana or paraphernalia relating to the administration of Marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the MMMA. **(Added by Ord. No. 84-11.)**

Medium Wind Energy Turbine (MWET). A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system; and which has a nameplate capacity that does not exceed 250 kilowatts; and the total height of which does not exceed 150 feet. **(Added by Ord. No. 09-76.)**

Mobile Home. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, excluding, however, a vehicle designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle moved on or drawn by another vehicle. Also referred to as a "manufactured home" in this Ordinance. **(Amended by Ord. No. 44-00.)**

Mobile Home Condo Project. A condominium project where mobile homes are intended to be located upon separate sites which constitute individual condominium units.

Mobile Home Commission Act. Michigan Act 419 of 1976, as amended, or other similar successor statute having similar licensing jurisdiction.

Mobile Home Lot. A measured parcel of land within a mobile home park which is delineated by lot lines on the final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home.

Mobile Home Pad. That portion of a mobile home lot reserved for the placement of a mobile home, appurtenant structures, or additions.

Mobile Home Park or Manufactured Housing Community. A parcel or tract of land under the control of a person upon which three or more manufactured 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, tether with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home. **(Amended by Ord. No. 44-00.)**

Mobile Home Subdivision. A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 228 of 1967, as amended.

Modular Home. A factory built home designed to be moved in sections or in one piece and placed on a permanent foundation for year-round living as a single family dwelling.

Motel. A building or group of buildings on the same lot, whether detached or in connecting rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside, with garage or parking facilities located on the lot and designed for, or occupied by automobile travelers. The term shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

Motor Carrier Vehicle Engaged. Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

Motor Vehicle. (As defined in the motor vehicle code of the state). Any vehicle which is self-propelled, propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.

Motorcycle. (As defined in the motor vehicle code of the state). An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

Muffler or Sound Dissipative Device. A device for abating the sound of escaping gases of an internal combustion engine.

Nacelle. The encasement which houses all of the generating components, gear box, drive tram, and other equipment in a WET. **(Added by Ord. No. 09-76.)**

Net-Metering. A special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid. **(Added by Ord. No. 09-76.)**

Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise Control Officer. The provisions of Chapter 4, Section 4.32, noise control shall be administered and enforced by the Zoning Administrator, Chapter 15, Section 15.02. **(Amended by Ord. No. 81-2010.)**

Noise Disturbance. Any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.

Noise Sensitive Zone. Any area where a school, hospital, house of worship, day care center, nursing home, public library, senior citizen center, residence, or court is located. An area of potential noise disturbance.

Non-Agriculturally Related Products. A commercial product not connected to farming or a farm operation, such as novelty t-shirts or other clothing, crafts and knick-knacks. **(Added by Ord. No. 85-11.)**

Non-Agriculturally Related Use. A use that is part of an agricultural tourism operation's total offerings but not tied to farming or the farm's buildings, equipment, or fields, and which may include amusement rides, concerts and similar uses. **(Added by Ord. No. 85-11.)**

Non-Commercial Organization. An organization which does not produce an income for any person; a non-profit organization which raises funds for itself and which has 15 or more stockholders or members shall be considered a non-commercial organization.

Nursing Home. A facility licensed under Michigan Act 368 of 1978, as amended, or any similar successor having similar licensing jurisdiction.

Occupied Building. A residence, school, hospital, church, public library, business, or any other building used for public gatherings. **(Added by Ord. No. 09-76.)**

Operator, WET. The entity responsible for the day-to-day operation and maintenance of a WET. **(Added by Ord. No. 09-76.)**

Outdoor Pond. Any outdoor body of standing water accumulated in a natural or artificially constructed basin or depression in the earth, either above or below or partly above or partly below grade, capable of holding water to a depth of greater than two feet when filled to capacity, and having a water surface area measuring at least 400 square feet, and which is used for recreation, pleasure or agricultural use only. Any pond existing or created for the sole or additional purpose of mineral extraction shall require, in addition to a special land use approval under Section 4.26, special land use approval under Section 4.27.

Owner, WET. The individual or entity, including their respective successors and assigns, that have an equity interest or own a WET. **(Added by Ord. No. 09-76.)**

Parking Area, Space or Lot. An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors, or employees. Parking area shall include access drives within the actual parking area.

Parking Bay. A hard surface area adjacent and connected to, but distinct from a street, intended for parking motor vehicles.

Person. Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency, or instrumentality of any state or any political subdivision of a state.

Pier. Concrete posts embedded in the ground to a depth below the frost line at regular intervals along the longitudinal distance of a mobile home and intended to serve as a base for supporting the frame of the mobile home.

Planning Commission. The Polkton Township Planning Commission.

Principal or Main Use. The primary or predominant use of a lot.

Public Right-of-Way. Any street, avenue, boulevard, highway, sidewalk, or alley, or similar place which is owned or controlled by a governmental entity.

Public Space. Any real property or structures thereon which are owned or controlled by a governmental entity.

Pure Tone. Any sound which can be distinctly heard as a single pitch or a set of single pitches.

D. **Definitions R-Z.**

Real Property. An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

RMS Sound Pressure. The square root of the time averaged square of the sound pressure denoted Prms.

Roadside Stand. A temporary structure used for the roadside display and sale of farm products and/or processed farm products. A roadside stand is permitted in any zoning district, and the farm products and/or processed farm products displayed and offered for sale at a roadside market stand may be derived from the same or from a different premises than where the roadside market stand is located. A roadside stand shall not be located within a public road right-of-way. **(Amended by Ord. No. 85-11.)**

Rotor Diameter. The cross-sectional dimension of the circle swept by the rotating blades of a WET. **(Added by Ord. No. 09-76.)**

Seasonal. When used in connection with agricultural uses or agricultural tourism, this term means a recurrent period characterized by certain regular occurrences, such as festivals, crop production, and harvesting when crops are ready, but it does not refer to year round occurrences. **(Added by Ord. No. 85-11.)**

Seasonal Sign. **(Repealed by Ord. No. 101-17.)**

Shadow Flicker. The moving shadow, created by the sun shining through the rotating blades of a WET. The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight. **(Added by Ord. No. 09-76.)**

Small Structure-Mounted Wind Energy Turbine (SSMWET). A wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system, and which is attached to a structure's roof, walls, or other elevated surface; and which has a nameplate capacity that does not exceed ten kilowatts; and the total height of which does not exceed 15 feet, as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances. **(Added by Ord. No. 09-76.)**

Small Tower-Mounted Wind Energy Turbine (STMWET). A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system; and which has a nameplate capacity that does not exceed 30 kilowatts; and the total height of which does not exceed 120 feet. **(Added by Ord. No. 09-76.)**

Sound. An oscillation in pressure, particle displacement, particle velocity or other similar parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound Level. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound Level Meters. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

Sound Pressure. The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

Sound Pressure Level. Twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals. The sound pressure level is denoted L_p or SPL and is expressed in decibels.

Street. A publicly or privately owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, land, boulevard, highway, road, or other thoroughfare, except an alley.

Structure. Anything except a building, constructed or erected, the use of which requires permanent location on the ground or lake, river, or stream bottom or attachment to something having a permanent location on the ground, lake, river, or stream bottom.

Swimming Pool. A structure either above or below or partly above and partly below grade, located either in part or wholly outside of a permanently enclosed and roofed building, designed to hold water to a depth of greater than two feet when filled, and intended to be used for swimming purposes.

Total Height, WET. The vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of a WET. **(Added by Ord. No. 09-76.)**

Tourist Home. A building, other than a hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

Tower, WET. A freestanding monopole that supports a WET. **(Added by Ord. No. 09-76.)**

Township Board. The Polkton Township Board.

Township. Polkton Township, Ottawa County, Michigan.

Travel Trailer. A transportable unit intended for occasional short-term occupancy as a dwelling unit during travel, recreational, or vacation use.

Tri-vision Sign. A sign that has an image or images on a sign display face that presents or is capable of presenting sequentially two or more separate images, in whole or in part, by means of components or devices such as rotating cylinders or slats that turn to change a sign image. **(Added by Ord. No. 90-12.)**

Usable Floor Area. The floor area of a dwelling exclusive of garages, porches, basement, or utility area.

Upwind Turbine. A WET positioned in a manner so that the wind hits the turbine blades before it hits the tower in order to avoid the thumping noise which can occur if the wind is disrupted by hitting the tower before the blades. **(Added by Ord. No. 09-76.)**

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

Weekday. Any day Monday through Friday which is not a legal holiday.

Wind Energy Overlay District. An overlay zoning district(s) designating the specific areas within the Township best situated for development of a Large Wind Energy Turbine (LWET). Such an overlay district shall not be created or authorized by the Township until this Ordinance has been amended so as to adopt standards for the design and siting of LWETs. **(Added by Ord. No. 09-76.)**

Wind Energy Turbine (WET). Any structure-mounted, small, medium, or large wind energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the nacelle, rotor, tower, and pad transformer, if any. **(Added by Ord. No. 09-76.)**

Wireless Communication Facility. Wireless communication facilities shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include but shall not be limited to radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, and private and

commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities, short wave receiving facilities, radio and television broadcast reception facilities, federally licensed amateur (ham) radio facilities, satellite dishes and governmental facilities that are subject to state or federal law or regulations which preempt municipal regulatory authority. **(Added by Ord. No. 39-98.)**

Yard. A required open space other than a court, unoccupied and unobstructed by any building or structure; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard - Front. A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the main wall of the building or structure. In the case of waterfront lots, the yard fronting on the street shall be considered the front yard.

Yard – Side. A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building.

Zoning Act. The Michigan Zoning Enabling Act, Public Act 110 of 2006, as it may be amended from time to time. **(Amended by Ord. No. 06-65.)**

Zoning Administrator. The Polkton Charter Township Zoning Administrator, having the authority and duties as described in this Ordinance, and such other responsibilities and duties that have been assigned or delegated to the Zoning Administrator by the Planning Commission or Township Board. **(Amended by Ord. No. 81-2010.)**

CHAPTER 4 GENERAL PROVISIONS

These general provisions shall apply to all zoning districts.

SECTION 4.01 THE EFFECT OF ZONING.

Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with this Ordinance.

SECTION 4.02 RESTORATION OF UNSAFE BUILDINGS.

Subject to the provisions of the nonconforming use chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

SECTION 4.03 AREA, HEIGHT AND USE CONDITIONS AND EXCEPTIONS.

- A. **Required Area or Space.** A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its non-compliance with such minimum requirements.
- B. **Existing Lots of Record.**
1. If a lot in a residential zoning district which was platted or otherwise of record as of the effective date of this Zoning Ordinance does not comply with the area and/or width requirements of its zoning district, then such lot may be used for one single family dwelling, and then only if such single family dwelling is first authorized by the Township Board as a special land use pursuant to Chapter 21 of this Ordinance. In considering whether to grant special land use approval, the following standards shall be considered, in addition to the standards of Section 21.05:
 - a. The size, character and nature of the residential building and accessory buildings to be erected and constructed on the lot.
 - b. The effect of the proposed use on adjoining properties and the surrounding neighborhood.
 - c. The effect of the proposed use on light and air circulation of adjoining properties.
 - d. The effect of any increased density of the intended use on the surrounding neighborhood, and

- e. Available parking for the intended use.

Provided, however, that a lot which was platted or otherwise of record as of the effective date of this Ordinance, and which is located in the R-1 or R-2 zoning district, may be used for one single family dwelling without authorization as a special land use if:

- a. The lot has a minimum lot area of 15,000 square feet and
- b. The lot is in compliance with all yard requirements for the R-1 Zoning District.

- 2. If a lot in a commercial zoning district which was platted or otherwise of record as of the effective date of this Ordinance does not comply with the area and/or width requirements of the commercial zoning district, then such lot may be used only if first authorized by the Township Board as a special land use pursuant to Chapter 21 of this Ordinance. In considering such special land use authorization, the following standards shall be considered, in addition to the standards of Section 21.05:

- a. The size, character and nature of the commercial building and accessory buildings to be constructed on the lot.
- b. The effect of the proposed use on adjoining properties and the surrounding neighborhood.
- c. The effect of the increased density of the intended use on the surrounding neighborhood.
- d. Available parking for the intended use.

Provided, however, that a lot in the commercial district which was platted or otherwise of record as of the effective date of this Ordinance may be used for commercial use without authorization as a special land use if the lot has a minimum area of 12,000 square feet and is in compliance with all yard requirements of the commercial zoning district.

- 3. When two or more non-complying lots are adjacent to each other and in common ownership, such lots shall be combined so that the lot or lots created by this combination comply or more closely comply with the minimum requirements of this Ordinance. **(Subection B amended by Ord. No. 81-2010.)**

- C. **Exceptions.** The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed 90 feet in height. Additions to existing buildings and structures which now exceed the height regulations of their zoning district up to the

height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the building or structure.

- D. **Mobile Homes.** Mobile homes are not permitted as an accessory use to a permitted principal use. Mobile homes are permitted only in approved mobile home parks and as specifically authorized by Sections 4.09 and 4.29.
- E. **Modular Homes.** Modular homes, component or pre-fabricated homes shall be allowed as principal uses in all zones allowing conventional single family residences, provided that such homes meet all other pertinent requirements as established for such single family residences within the provisions of this Ordinance.
- F. **Transition Zoning.** The first lot in a R or AG-1 Zoning District which has a side yard adjacent to a lot in a commercial zoning district without any street intervening may be used for the uses permitted and as regulated in the R-2 Zoning District as a special use when this use is first authorized by the Township Board. This transition zoning for such first lot shall not extend more than 150 feet from the commercial zoning district. In considering such authorization, the following standards shall be considered: **(Amended by Ord. No. 81-2010; amended by Ord. No. 99-15, eff. June 28, 2015.)**
 - 1. The intended use of the lot.
 - 2. Ingress and egress to the lot and the proposed buildings or structures to be located thereon.
 - 3. Potential traffic congestion.
 - 4. The nature and character of buildings and structures or properties in the surrounding neighborhood.
 - 5. The effect of the intended use on light and air circulation for properties which are both adjoining and in the surrounding neighborhood.
 - 6. The effect of any increased density of the intended use on the surrounding neighborhood.

(Section 4.03.F was amended by Ord. No. 29A-93.)

- G. Mechanical appurtenances such as blowers, ventilating fans and air conditioning units must be attached to the principal building or, if separate from the principal building, be placed no closer than 20 feet to any adjoining property.
- H. Mechanical work (1) on trucks of one or more tons or on race cars, stock or otherwise, or dune buggies owned by the occupant of a lot, or (2) on vehicles not owned by any occupant of the lot is prohibited in all residential zoning districts. Any permitted work on vehicles must be performed entirely within a building.

- I. Private fallout shelters for a particular lot are permitted in any zoning district as an accessory use, provided there is compliance with all yard and coverage requirements of the zoning district. Community fallout shelters are permitted in any zoning district as a special use when this use is authorized by the Township Board. In considering such authorization, the following standards shall be considered: **(Amended by Ord. No. 81-2010.)**
 - 1. Size, proposed location, type and kind of construction, and general architectural character of the shelter.
 - 2. Unanimity of surrounding neighborhood participation in the shelter.
 - 3. Effect of the shelter on the surrounding neighborhood.
- J. In all residential zoning districts, all motor vehicles (except passenger motor vehicles including motor homes, snowmobiles, and motorcycles) shall only be parked in a building or covered structure.

No boat, travel trailer, camper, or similar vehicle parked or stored in a residential zoning district shall be used as a sleeping quarters, be connected to utilities, or be used for human habitation in any manner.

SECTION 4.04 RAZING OF BUILDINGS. (Section 4.04 amended by Ord. No. 81-2010.)

No building or structure, excluding farm buildings and structures, shall be razed unless a permit therefore has first been obtained from the Zoning Administrator. Such razing shall be completed within such reasonable time period as shall be specified by the Zoning Administrator in the razing permit. Such razing shall be completed in such a manner that (1) it shall not be obnoxious to occupants of surrounding properties on account of dust, noise, vibration, traffic and the like, (2) adequate provision shall be made for the safety of person and property, (3) all waste materials shall be removed from the razing site, (4) all debris and rubble (including concrete and bricks) shall be removed from the razing site, and (5) the razing site shall be restored to a level grade.

The Zoning Administrator may, in his discretion, require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township be deposited with the Township Clerk by the razing permit applicant to guarantee compliance by the applicant with all the requirements of this section and completion of the razing and all required cleanup and removal within the time specified in the permit. The amount of such financial guarantee shall be determined by the Zoning Administrator but shall in no event be greater than \$1,000.00 to each 1,000 square feet or fraction thereof of floor area of the building or structure to be razed.

SECTION 4.05 ESSENTIAL SERVICE.

- A. Except as provided in subsection B below, the erection, construction, alteration or maintenance of essential services, as defined by this Ordinance, shall be considered a permitted use in any zoning district, subject to the following requirements:
 - 1. Essential services shall be constructed and maintained in a neat and orderly manner.

2. Any building which is constructed for the provision of an essential service shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.
- B. The establishment, erection, construction, improvement, alteration modernization or expansion of an electrical substation or gas regulator station shall be allowed only if approved as a special land use in accordance with the procedures and standards of Chapter 21 of this Ordinance. **(Section 4.05 amended by Ord. No. 110-20; eff. May 26, 2020.)**

SECTION 4.06 OUTDOOR STORAGE AND WASTE DISPOSAL.

- A. All outdoor storage facilities utilized in connection with non-residential activities shall be enclosed by a solid fence or wall of not less than six and no more than ten feet in height which is adequate to conceal such facilities from adjacent properties and from public view.
- B. If materials or wastes are stored outside which might cause fumes, odors and dust or which constitute a fire hazard or which may be edible by rodent or insects, then such materials shall be stored only in closed containers and screened from public view and adjacent properties.
- C. No materials or wastes shall be deposited on a lot or property in such form or manner that they may be moved off the lot or property by natural causes or forces.
- D. Waste materials shall not be allowed to accumulate on a lot or property in such manner as to be unsightly, constitute a fire hazard or contribute to unsanitary conditions.
- E. All outdoor storage facilities for fuel, raw materials and products less than 100 feet from any other property shall be enclosed by a solid fence or wall of not less than six nor more than ten feet in height.
- F. On any lot in the AG, AG-PUD, R-1, R-2 or R-5 Districts, the outdoor storage of any boat, boat trailer, watercraft, watercraft trailer, snowmobile, snowmobile trailer, camper, recreational vehicle or any other vehicle or trailer ordinarily towed or driven for a recreational purpose (all referred to in this section as “recreational vehicles”) shall be prohibited, unless such outdoor storage is performed in accordance with the following requirements:
1. The outdoor storage of recreational vehicles is prohibited on any lot in the AG, AG-PUD, R-1, R-2 or R-5 Districts that is not occupied by a principal dwelling.
 2. No recreational vehicle shall be stored outside more than 30 days per calendar year if it:
 - a. Is dismantled, in whole or in part, or is not operable in its intended manner because of a defect, malfunction, damage or state of disrepair; or,

- b. Is not currently licensed or registered, or is not capable of being licensed or registered for operation in its intended manner.
3. A recreational vehicle shall not be stored outside except in compliance with the following locational standards:
 - a. On an interior lot, behind the front building line of the dwelling existing on the lot.
 - b. On a corner lot, behind the front building line of the dwelling existing on the lot, and also behind the side building line of the dwelling existing on the lot, with respect to the side yard abutting a street.
 - c. On a waterfront lot, no closer than 40 feet from the water's edge, except for watercraft in current active use on the water body on which the lot is located.
 - d. On any lot, no closer than ten feet from a side lot line nor closer than ten feet from a rear lot line.
4. All recreational vehicles stored outside shall be maintained in a clean, well kept condition so as not to detract from the appearance of the surrounding neighborhood.
5. The outdoor storage of recreational vehicles shall be limited to those owned or leased by, and licensed or registered to, the occupant of the lot on which the vehicles are stored.
6. No recreational vehicle shall be parked overnight on any public street, park or other public place within the Township unless such site has been specifically approved for such use by the Township.
7. The provisions of this section shall not be deemed to prohibit either of the following:
 - a. The temporary parking of not more than one recreational vehicle in the front yard at any one time, for a period not to exceed seven days, for the purpose of facilitating maintenance of the recreational vehicle or to accommodate temporary guests of the occupants of the same lot.
 - b. The temporary parking of not more than one recreational vehicle in the front yard at any one time, for a period not to exceed a total of 30 days per calendar year, for the purpose of offering for sale a recreational vehicle that is owned and offered for sale by the occupants of the same lot. If more than one vehicle is offered for sale in a single calendar year under this provision, the total number of days, for all vehicles combined, shall not exceed 30 days.
8. In no circumstance shall a recreational vehicle be parked or stored in such a manner to create a traffic hazard or to otherwise create an unsafe situation by interference with the view of pedestrians or the drivers of vehicles on private or public streets. **(Section 4.06.F amended by Ord. No. 06-61.)**

SECTION 4.07 REQUIRED YARD OR LOT.

All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the zoning district in which they are located.

SECTION 4.08 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE VIBRATIONS AND ODORS.

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

SECTION 4.09 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION.

- A. Upon application, the Zoning Administrator shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six calendar months and shall be renewed by the Zoning Administrator for four additional successive periods of six calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- B. Upon application, the Zoning Administrator shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six calendar months and shall be renewed by the Zoning Administrator for four additional successive periods of six calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

(Section 4.09 amended by Ord. No. 81-2010.)

SECTION 4.10 ACCESSORY USES.

- A. In any zoning district, accessory uses, incidental only to a permitted use, are permitted when located on the same lot; provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry.
- B. **Keeping of Animals. (Subsection B replaced by Ord. No. 47-02.)**
 - 1. **Household Pets.** The keeping of household pets, including cats, dogs, rodents, reptiles, amphibians, household fish, or household birds, is permitted as an accessory use in any zoning district, provided however, that no more than four adult dogs, cats, rabbits, raccoons or other fur bearing animals, fowl or any combination thereof, and no more than eight other indoor caged smaller animals such as rodents or reptiles or birds shall be permitted on any one premises unless otherwise provided in this Ordinance.

2. **Livestock and Farm Animals.**

- a. Commercial livestock farming operations are permitted by right in the AG-1 District under the terms of Section 6.02, and intensive livestock operations are permitted by special land use in the AG-1 District under the terms of Section 6.03. Commercial riding stables are permitted by special land use in the AG-1 District under Section 6.03. **(Amended by Ord. No. 85-11.)**
- b. The keeping of livestock and farm animals such as horses, cattle, pigs, goats, mules and poultry in the R-1, R-2 and R-5 Districts shall require a minimum of five acres. The keeping of such animals may be permitted in any detached accessory building or within appropriately fenced drained open space and provided that the number of such animals shall not exceed:
 - i. One large animal such as a horse, cow, bison, swine, goat, sheep, llama or similar hoofed animal for the first three acres of lot area not within the required setbacks and not more than one additional such animal for each additional three acres not within the required setbacks.
 - ii. One hundred twenty five rodents, fowl or poultry.

Any building or pasture in which such animals are kept shall be at least 75 feet from a public or private road right-of-way and 50 feet from any side or rear property line. **(Section 4.10.B.2.b amended by Ord. No. 06-67.)**

- 3. **Dangerous Animals.** No dangerous animal may be housed, caged, allowed to roam or otherwise kept in the Township unless the Township Board has issued a license to the dangerous animal's owner. The regulation and licensing of dangerous animals is controlled by a separate Dangerous Animal Regulation Ordinance.

SECTION 4.11 ACCESSORY BUILDINGS. (Title changed by Ord. No. 26A-93; Section 4.11 replaced by Ord. No. 4.5-81; Section 4.11 amended in its entirety by Ord. No. 08-71.)

A. **Regulations Applicable to All Accessory Buildings.** Except as otherwise noted, the following regulations shall apply to all accessory buildings, as defined in Section 3.02, located on lands in all zoning districts:

- 1. In any zoning district, accessory buildings may be constructed and used in accordance with this section, and in accordance with other applicable provisions of this Ordinance.
- 2. An accessory building shall not be located upon or maintained upon a lot or parcel of land that does not also contain a permitted principal building; provided, however, that this provision shall not apply to an "agricultural building," as that term is defined by this Ordinance and by the Michigan Building Code.

3. An accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. An accessory building shall be considered attached to a principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
 - a. When erected as an integral part of a permitted principal building, an accessory building shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building.
 - b. The connected distance between a principal building and an attached accessory building shall not exceed 16 feet in length.
4. Detached accessory buildings shall comply with the following locational requirements:
 - a. The distance between a detached accessory building and any principal building, or other accessory building, shall not be less than 15 feet.
 - b. A detached accessory building shall not be located closer than 20 feet from the rear lot line of a lot or parcel. This standard shall apply to all detached accessory buildings, even if the applicable zoning district specifies a different rear yard setback for other types of buildings or structures.
 - c. A detached accessory building shall comply with the side yard setback requirement that pertains to the principal dwelling located on the same lot or parcel.
5. The architectural character of an accessory building shall be compatible with and similar to that of the permitted principal building on the same lot or parcel.
6. No detached accessory building or structure shall include residential or living quarters for human beings. **(Paragraph 3 amended by Ord. No. 09-77.)**

B. Regulations Applicable to Non-Agricultural Accessory Buildings. The following regulations shall apply to non-agricultural accessory buildings located on lands in the AG-1, AG-PUD, R-1, R-2 and R-5 Districts:

1. A detached accessory building shall not be situated closer to the front lot line than the front building wall of the principal dwelling located on the same lot or parcel.
2. A single accessory building that is used as a customary private garage (i.e., used primarily for the parking and storage of passenger vehicles owned by an occupant of the same premises) may be constructed and maintained on a lot or parcel. A private garage may be attached to or detached from the permitted principal dwelling on the same lot or parcel, and shall comply with the following area and height restrictions:

- a. The floor area of an attached private garage shall not exceed 864 square feet for the first 1,200 square feet of habitable floor area contained in the dwelling to which it is attached. In addition, for each whole increment of five square feet that the habitable floor area of the attached dwelling exceeds 1,200 square feet, the floor area of the attached garage may be increased by one square foot.
 - b. The floor area of a detached private garage shall not exceed 864 square feet.
 - c. The height of a private garage, whether attached or detached, shall not exceed 18 feet or the height of the first story of the permitted principal dwelling on the same lot or parcel, whichever is less.
3. In addition to the single private garage permitted by subsection B.2 of this section, one detached accessory building may be constructed and maintained on a lot or parcel for household storage, parking of yard equipment and/or recreational vehicles, home work shops and other similar uses. This additional accessory building shall comply with the following area and height restrictions:
 - a. The floor area shall not exceed 120 square feet or one percent of the area of the lot or parcel on which it is located, whichever is greater; provided, however, that in no case shall the floor area exceed 1,200 square feet.
 - b. The height shall not exceed 18 feet or the height of the first story of the permitted principal dwelling on the same lot or parcel, whichever is less.
4. The Zoning Board of Appeals shall have the authority, upon application of a landowner, to permit an accessory building having an area and/or height greater than that provided in this subsection B; or to permit not more than one additional accessory building, in addition to those permitted by subsections B.2 and B.3; or to allow a detached accessory building to be located closer to the front lot line than the front building wall of the principal dwelling located on the same lot or parcel. Such applications shall be submitted to the Zoning Board of Appeals as a matter for decision under Section 603 of the Michigan Zoning Enabling Act. In considering the application, the Zoning Board of Appeals shall apply the following standards:
 - a. The size of the accessory building in relation to the size of the lot on which it is placed.
 - b. The size of the accessory building in relation to the principal building on the lot on which it is to be placed.
 - c. The location of the accessory building in relation to other buildings on adjoining lots and in relation to the principal building.
 - d. Whether or not the accessory building will affect the light and air circulation of any adjoining property.

- e. Whether the accessory building will adversely affect the view of any adjoining property.
- f. The extent to which the accessory building would adsorb required yards and other open space.

C. **Regulations Applicable to Accessory Agricultural Buildings.** The following regulations shall apply to accessory “agricultural buildings,” as that term is defined by this Ordinance and the Michigan Building Code.

- 1. A building permit is not required for an agricultural building. However, prior to construction, a site plan for an agricultural building shall be submitted to the Zoning Administrator for review under Chapter 16A. **(Amended by Ord. No. 81-2010.)**
- 2. An agricultural building shall not include any facilities or amenities which would make it suitable for use as residential or living quarters for human beings, and shall in no case be constructed so as to constitute a “dwelling unit,” as that term is defined by the Michigan Building Code.
- 3. As a condition of site plan approval for an agricultural building, the Township reserves the right to inspect the agricultural building at all stages of construction. The purpose of the inspection is to ensure that construction is being completed in accordance with the approved site plan and to ensure that the building is not being constructed with facilities and amenities that would make it suitable for use as residential or living quarters for human beings.

D. **Regulations Applicable to Commercial and Industrial Accessory Buildings.** The following regulations shall apply to accessory buildings located on lands in the C-1, C-2 and I-1 Districts:

- 1. Prior to construction, a site plan for an accessory building shall be submitted to the Planning Commission for review under Chapter 16A.
- 2. In deciding whether to approve a site plan for a proposed accessory building, the Planning Commission shall apply the standards listed in Section 4.11.B.4, in addition to the standards of Section 16A.04.

(Section 4.11.D.3 amended by Ord. No. 06-65.)

SECTION 4.12 SWIMMING POOLS.

- A. No swimming pool (referred to as “pool” in this section) shall be constructed, erected or installed on any lands in the Township unless a permit therefore has first been obtained from the Zoning Administrator. **(Amended by Ord. No. 81-2010.)**
- B. The outside edge of the pool wall shall not lie located nearer than ten feet to any lot line.

- C. Any pool constructed of poured concrete shall have a bottom not less than six inches thick and walls not less than eight inches thick, such walls and bottom to be reinforced with metal reinforcing rods. Liner type pools may be constructed or installed if:
1. The liner used is made and furnished by a manufacturing concern which, as a part of its business, regularly makes swimming pool liners out of plastic, rubber, fiberglass, steel or any other type product.
 2. The bottom and walls of such liner type pool are constructed in accordance with the specifications of the manufacturer of the liner.
- D. Each pool shall be enclosed by a fence or a wall of a height no less than four feet nor more than six feet which is constructed in such manner that no person may enter the yard or the area where the pool is located without passing through a gate or door located on the lot on which the pool is situated. The fence may be placed on or anywhere inside the lot lines of the lot where the pool is situated; provided, however, that no fence may be erected closer to the street than a building may be erected in the zoning district in which the pool is located. This requirement does not apply to an above-ground pool having solid walls extending at least four feet above grade around its entire perimeter, provided that the pool has no permanent steps, permanent ladder or other similar item permanently attached to it that allows entry into the pool, and provided further that all detachable steps, ladders or other similar items allowing entry into the pool are removed and remain inaccessible when no adult person is present on the lot where the pool is located. **(Amended by Ord. No. 60-65.)**
- E. In circumstances where a fence or wall is required by subsection D, all gates and doors which permit access to the pool area shall be capable of being locked and shall be locked at all times when no adult person is present on the lot on which the pool is located. **(Amended by Ord. No. 60-65.)**

SECTION 4.13 PRINCIPAL BUILDING ON A LOT.

In all residence zoning districts, no more than one principal building shall be placed on a lot.

SECTION 4.14 FRONT YARD.

In any residence zoning district where the average depth of at least two front yards of existing adjacent buildings within 100 feet of the lot in question and within the same block on the same side of the street is less or greater than the minimum front yard depth prescribed for the residence zoning district in which the lot is located, than the required front yard shall be modified to be no less than the average depth of existing adjacent building; provided, however, that the depth of the front yard shall not be less than ten feet in any event.

SECTION 4.14A REAR YARD ABUTTING A BODY OF WATER.

The following requirements shall apply only to lots abutting the Grand River. In any residential zoning district where the average depth of at least two rear yards of existing adjacent lots within 300 feet of the lot in question and within the same block on the same side of the street is greater than the minimum rear yard depth prescribed for the zoning district in which the lot is located, then the

required rear yard shall be modified to be no less than the average depth of the existing adjacent rear yards; provided, however, that the depth of the rear yard shall not be less than 50 feet in any event, provided, further that if the Zoning Administrator shall determine that there is an unusual shoreline configuration, unusual topographical problems or unusual circumstances, then the matter shall be referred to the Zoning Board of Appeals as a matter for decision pursuant to Section 603 of the Michigan Zoning Enabling Act for determination of all front, side and rear yard requirements. In establishing such yard requirements, the Board of Appeals shall consider the following standards:

- A. The location of buildings on adjoining properties. **(Amended by Ord. No. 06-65.)**
- B. The effect of construction on the lot in question on the view from adjoining properties.
- C. The potential effect of erosion and flooding from high water on the lot in question.
- D. The effect, if any, on the location of improvements on the building in question on existing sea wall or other flood control or erosion devices located on adjoining properties.
- E. The relative proximity of the proposed buildings to adjoining properties, specifically including proximity to occupied dwellings.
- F. The effect of the proposed building on adjoining properties and the surrounding neighborhood.

SECTION 4.15 DOUBLE FRONTAGE LOTS.

Buildings on lots having frontage on two intersecting or non-intersecting streets shall comply with the front yard requirements on both such streets.

SECTION 4.16 SIGNS. SIGNS. [related Sections include Sections 4.28.E.1.c, 4.35.E.3, 8B.03.L, 9.05.O.4, 11.06.C, 11A.04.I, 12.02.N, 11.06.C, and 23.10]

- A. **Intent of Sign Regulations.** These sign regulations are intended to protect the health, safety and welfare of the general public, while promoting and balancing public and private interests. Signs inform, direct, advertise and communicate information, but must do so in a manner that does not unduly detract from the community or the safety of the traveling public. These sign regulations are intended, specifically, to further the following objectives:
 - 1. Protect and further the public health, safety and welfare; maintain and approve the Township's appearance and preserve community character.
 - 2. Minimize traffic hazards and distractions; provide safer conditions, including information and direction for the traveling public and for pedestrians.
 - 3. Promote economic development and commercial activity.
 - 4. Allow for adequate and effective signage for business identification and other commercial speech, non-commercial speech and distribution of public information.

B. **Definitions.** For the purpose of applying this Section 4.16, the following terms and phrases shall have the following definitions:

1. **Abandoned Sign.** A sign which no longer identifies or advertises a bona fide business, owner, landlord, person, service, product or activity, or for which no legal owner can be found. A sign shall be considered an abandoned sign if the owner has failed to secure a permit as required by this Ordinance, or where the owner has failed to respond to notices issued under this Ordinance.
2. **Address Sign.** A sign which identifies the street address of a property with numbers or letters no greater than six (6) inches in height for residences, and no greater than 18 inches in height for all other uses. [also see definition of “Window Sign”]
3. **Alteration.** As used in this section, the term “alteration” (or “alter,” “altered” etc.) means any change in a sign, including, without limitation, any change in a sign’s dimensions, shape, area, height, number or orientation of sign faces, structural support, location on the property, materials or lighting; provided, however, a change solely in the wording of the copy of a sign shall not constitute an “alteration” for purposes of this section, unless the result of the change would cause the sign to be reclassified to a type of sign that is subject to different or more restrictive regulation.
4. **Awning or Canopy.** A retractable or fixed shelter on a supporting framework, constructed of fabric, plastic or other non-rigid materials, projecting from and supported by the exterior wall of a building.
5. **Balloon Sign.** A sign composed of a non-porous structure filled with gas or supported by air.
6. **Billboard or Off-Premises Sign.** Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed, or fabricated on such land. This definition does not include a Portable Sign, or a Garage or Estate Sale Sign, as defined in this section.
7. **Business Sign.** Any sign structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the same land where the sign structure is located, or advertising products sold, manufactured, processed, or fabricated on the same land where the sign structure is located.
8. **Community Special Event Sign.** A portable sign not exceeding four (4) square feet in area, erected for the purpose of calling attention to non-commercial, special events of interest to the general public which are sponsored by governmental agencies, schools or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.

9. **Construction Sign.** A sign less than 12 square feet in area which identifies the owners, lenders, contractors, architects, and engineers of a project under construction, as well as the project itself.
10. **Copy.** The wording, numbering or lettering on a sign surface in either permanent or removable letter or number form.
11. **Device Sign.** A permanent sign on vending machines, gas pumps, ice containers, and similar equipment or fixtures indicating only the contents of such device, provided that the sign area of each sign shall not exceed three (3) square feet in area, and shall be limited to one (1) sign per vending machine, gas pump, ice container or other similar equipment.
12. **Digital Billboard.** A billboard consisting of, or incorporating, a digital sign as defined herein.
13. **Digital Sign.** A sign that consists of, or incorporates an image, display or sign face that is projected or otherwise produced, in whole or in part, by the use of specialized light-emitting technologies, such as, but not limited to, light-emitting diodes (LEDs), liquid crystal display (LCD) or plasma display panels, computer-generated imaging or similar means.
14. **Directional Sign.** A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the same lot on which the sign is located, such as parking or exit and entrance signs. A directional sign shall not exceed four (4) square feet in area and shall be set back at least five (5) feet from the street right-of-way line and the edge of all driveways. It shall bear no advertising matter other than a logo, trademark or identifying name of the business or entity subject to such directional sign.
15. **Electronic Message Board.** A sign that uses lights to display messages, such as, but not limited to, the current time, temperature, date of the immediate environment and limited advertisement, commercial or informational message or image.
16. **Farm Certification Sign.** An on-premises sign that is used to identify a certification that has been granted or awarded to an active commercial farm operation by a recognized agricultural accreditation or certification agency, for reason of the farm operation having met achievement or performance standards for farmland preservation, energy efficiency, organic production, or similar type(s) of standards or criteria for agricultural production. Not more than one such sign may be installed and displayed for each separate certification, and each such sign shall not be more than four (4) square feet in area and shall not be more than six (6) feet in height.
17. **Flags.** Flags or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device.
18. **Garage or Estate Sale Sign.** A non-permanent sign not exceeding four (4) square feet in area, erected to advertise the resale of personal property belonging to the

resident. This definition includes signs for garage sales, estate sales, rummage sales, yard sales or other similar casual sale of personal property. Not more than four (4) such signs may be installed and used for a single event, at any given time, and such signs shall be displayed for not more than 14 days in any calendar year.

19. **Gateway Sign.** A freestanding sign identifying, in the case of a residential district, a residential development or development of multiple dwelling buildings, and in the case of a commercial development or an industrial park, the name of the business center or industrial park. In the case of an industrial or commercial center, the gateway sign may include the names of the individual businesses or land uses within the development or park, subject to the regulations contained in this Ordinance. In the case of a planned unit development, a gateway sign shall comply with the requirements for a residential development, or for the requirements of a commercial or industrial development, as applicable. If the PUD is a mixed-use development, the names of the individual businesses or land uses within the development or park may be listed on the gateway sign.
20. **Ground Sign (a/k/a Monument Sign).** A freestanding sign not attached to a building or wall which is supported by one (1) or more poles or braces or which rests on the ground or on a foundation resting on the ground, the bottom of which is no more than 24 inches above the finished grade.
21. **Governmental and Essential Service Sign.** A sign erected or required to be erected by the Township, Ottawa County, or the state or federal government; traffic and highway signs; and, signs denoting utility lines, airports or railroads.
22. **Historic Markers.** A plaque, marker or sign made of cast iron or similar durable material commemorating a historic person or event or identifying a historic place, structure or object, including a centennial farm. A sign of this type shall not exceed four (4) square feet in area.
23. **Human or Animal Signs.** A sign for commercial purposes that is held, supported, carried or worn by a person or animal, including the wearing of a sandwich board or other message.
24. **Identification Sign.** A sign located on the same premises it pertains to, which serves only to identify only the name of the occupants, the name of the premises, and/or the address of the premises, and which in the case of a commercial farm operation, may also include the name of the farm operation or principal farm product produced on the same premises.
25. **Name Plate Sign.** A non-electric on premise sign not exceeding four (4) square feet in area, giving only the name, address, and/or occupation of a tenant, occupant or group of occupants.
26. **Nonconforming Sign.** A sign which was legally erected prior to the effective date of this section, but which does not conform to this section.

27. **Placard.** A sign not exceeding two (2) square feet which provides notices of a public nature, including warnings and safety messages, such as “no trespassing” or “no hunting.”
28. **Pole or Pylon Sign.** A freestanding sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles, or braces which are less than 50 percent of the width of the sign.
29. **Political Sign.** A non-commercial, portable sign displayed in connection with a governmental election or referendum. This definition also includes portable signs that communicate ideological messages or ideas that are not commercial in nature, and which, by their nature, are afforded the highest level of constitutional protection under the First Amendment.
30. **Portable Sign.** A sign that is not permanent or affixed to a building or structure or, which by its nature, may be or is intended to be moved from one location or another, whether rented or owned, such as “A” frame signs. A portable sign may contain directional information about the location of a business or activity (e.g., “1/4 mile to U-Pick Orchard”).
31. **Projecting Sign.** A double-faced sign attached to a building or wall that extends in a perpendicular manner more than 12 inches, but not more than 36 inches, from the exterior face of the building or wall to which it is attached.
32. **Public Utility Signs.** Signs of a non-commercial nature erected by public utilities with respect to services, products, warnings or other information regarding the utility.
33. **Real Estate Sign.** A non-illuminated, portable sign that advertises the real estate upon which the sign is located as being for sale, rent or lease, provided the real estate sign does not exceed four (4) square feet in area for single or two-family residences or eight (8) square feet for commercial, industrial and other residential properties (including undeveloped land). A real estate sign shall not have a height greater than six (6) feet, and not more than one (1) such sign shall be located on a single lot or parcel at any given time.
34. **Sign.** A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public.
35. **Temporary Sign.** A sign, flag, figure, or valance, usually constructed of cloth, canvas, light fabric, plastic, mylar, cardboard, wallboard or other light materials, with or without frames, or any other sign, other than a portable sign, that is not permanently secured and is not intended or designed for permanent use.
36. **Temporary Window Sign.** A window sign that is used only temporarily and is not permanently mounted. A sign which is intended to be or is in place for more than one (1) year is not a temporary sign.

37. **Vehicle Sign.** A sign affixed, painted or drawn on a vehicle, tractor-trailer or trailer, and which is visible from any public right-of-way, the primary purpose of which is to advertise or identify an establishment, product, service or activity, rather than merely to identify the vehicle, tractor-trailer or trailer. This definition does not include a sign on a licensed vehicle or licensed tractor-trailer under any of the following circumstances: (a) while it is parked in the parking lot of the same business to which the sign pertains, in the normal day-to-day operations of the business; (b) while it is being used for transport, delivery or similar purpose; or, (c) while parked overnight or otherwise being parked for a short duration at the home of an employee who is authorized to use the vehicle for such purposes.
38. **Wall Sign.** A sign painted or attached directly to and parallel to the exterior wall of a building, which does not extend more than 12 inches from the exterior face of the wall to which it is attached.
39. **Window Sign.** A sign installed inside a window intended to be viewed from the outside, which complies with the following requirements:
 - a. Temporary window signs or displays are permitted provided that the signs or displays shall not cover more than 30 percent of the total window or door surface.
 - b. Permanent window signs or displays shall be limited to 15 percent of the total window surface.
 - c. One address sign, containing only the street address, is permitted in the window of each tenant in a building that has more than one tenant. The address sign shall not exceed one (1) square foot in area. The address sign shall not be included in the calculation of permitted area for window signs.

C. **Sign Permits.**

1. **Permit Required.** Except as provided below in subsection 2, a sign shall not be erected, altered, placed or permitted to be placed or replaced within the Township without first obtaining a sign permit from the Zoning Administrator.
2. **Exemptions to Sign Permits.** If the following signs comply with applicable definitions and restrictions contained in this section, such signs shall be exempt from the requirement to obtain a sign permit:
 - a. Address signs.
 - b. Community special event signs.
 - c. Construction signs.
 - d. Device signs.

- e. Directional signs.
 - f. Farm certification signs.
 - g. Flags.
 - h. Garage sale and estate sale signs.
 - i. Governmental and traffic control signs.
 - j. Historic markers.
 - k. Name plate signs.
 - l. Placard signs.
 - m. Political signs.
 - n. Public utility signs.
 - o. Real estate signs.
 - p. Window signs.
3. All signs, including the exempt signs listed above in subsection 2, shall comply with the general sign provisions of Section 4.16.D.

D. **General Sign Provisions.** The following regulations are applicable to all signs in all zoning districts, including exempt signs:

1. **Sign Structure and Placement.**

- a. **Wind and Weather Resistant.** Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur.
- b. **Not in Public Right-of-Way.** Signs shall not be placed in, upon or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by the Township, the Ottawa County Road Commission or Michigan Department of Transportation. Signs placed in the right-of-way in violation of this Ordinance shall be deemed to be an abandoned sign and a safety hazard, subject to immediate removal and disposal by the Township.
- c. **Not on Utility Pole.** A light pole, utility pole or other supporting member shall not be used for the placement of any sign, except as may be specifically permitted by this section.
- d. **Not on a Tree.** A sign shall not be affixed to or displayed on a tree, except that a landowner may display the following types of signs on a tree that is

located on the landowner's own property: address sign, garage or estate sale sign, placard sign or political sign.

- e. **Not on a Park Bench.** Signs shall not be placed in, upon or over any park bench that is available for use of the general public, unless authorized by the Township for the purpose of recognizing a donor, as a memorial, or for other similar purposes.
 - f. **Not a Traffic Distraction.** A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
 - g. **Maximum Height.** Except where the height regulations of this section are more stringent, the maximum height of any sign shall be the maximum structure height of the district in which the sign is located, or 30 feet, whichever is less.
 - h. **Not Above Roofline.** A wall sign shall not extend past the edge of the wall to which it is affixed nor shall any such sign extend above the roof line of a building.
 - i. **Lot Lines.** A sign and its supporting mechanism shall not extend beyond or above any lot lines of the property on which it is located.
 - j. **Permanently Affixed; Exceptions.** All signs shall be stationary, anchored and shall pertain only to the business or activity conducted on the same premises, except for community special event signs, political signs and portable signs. No community special event sign, political sign or portable sign shall be placed on an off-premises property without the written consent of the property owner.
 - k. **Changeable Copy Signs.** All wall and freestanding signs may include changeable message displays (but not an Electronic Message Board) within the maximum size limits permitted for the sign, provided that the message is static and is not changed more frequently than daily or is otherwise required to reflect a change in the price of advertised goods or products.
 - l. **Maintenance.** Signs and their supporting foundations shall be cleaned and maintained in good repair, and shall be clearly legible, not faded.
2. **Calculation of Sign Area.** No sign shall exceed the maximum sign area allowed for the district in which it is located. The sign area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be calculated as follows:
- a. **Area.** The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo or any

other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

- b. **Double-faced Sign.** The area of a freestanding, ground or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) faces are placed back-to-back and are no more than two (2) feet apart at any point, the area of one (1) face shall be counted toward the maximum size requirement. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- c. **Wall Sign.** For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
- d. **Height.** The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
- e. **Multiple Tenant Buildings.** For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.

3. **Illumination and Movement.**

- a. Unless otherwise provided, signs may be illuminated internally or externally. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property. Beacon lights and search lights shall not be permitted.
- b. Flashing, moving, oscillating, blinking, or variable intensity light shall not be permitted.
- c. A sign shall not contain any moving or animated parts, nor have the appearance of having moving or animated parts, except for time and temperature signs and barber pole signs.

E. **Prohibited Signs.** The following signs are prohibited within the Township:

- 1. Any sign not specifically permitted by this section.
- 2. Electronic message boards.
- 3. Digital signs, Digital billboards and Tri-vision billboards

4. Billboards and off-premises signs, except as expressly allowed by this section.
5. Vehicle signs.
6. Human or Animal signs.
7. A sign erected on the roof of a building.
8. Banners, pendants and balloon signs, and other devices used to attract the attention of the public, except as otherwise allowed by this section as a temporary sign.
9. Light strings, and flashing, moving, oscillating, blinking, or variable intensity light.
10. Signs which depict vulgarity or pornography.

F. Regulations for Portable and Temporary Signs.

1. Portable signs are permitted only as follows:
 - a. Political signs are permitted in all districts. Other types of portable signs may be permitted only in the AG-1, R-1, R-2, R-5 and R-6 Districts, provided that they comply with the applicable definitions and restrictions contained in this section, and provided that they shall not be erected unless a permit therefore has been issued by the Zoning Administrator.
 - b. Where permitted, portable signs shall comply with each of the following requirements:
 - i. A portable sign may be used and displayed for a duration not to exceed 180 days in any calendar year.
 - ii. A portable sign shall not be installed within a public road right-of-way.
 - iii. A person shall not affix a portable sign to a property unless that person is (i) an owner of the property of which the sign is affixed, or (ii) has the express written permission of the owner of the property on which the sign is affixed.
 - iv. Not more than four (4) portable signs may be installed and used by any one person or business, at any given time.
 - v. A portable sign shall not have an area of more than eight (8) square feet and shall not have a height of more than six (6) feet.
2. Temporary signs are permitted only as follows:
 - a. Temporary signs may be permitted only in the C-1 and C-2 Districts or within a Commercial PUD, provided that they shall comply with the

applicable definitions and restrictions contained in this section, and provided that they shall not be erected unless a permit therefore has been issued by the Zoning Administrator.

- b. Where permitted, temporary signs shall comply with each of the following requirements:
 - i. A temporary sign may be used and displayed for a duration not to exceed fourteen (14) days in any calendar year, and only for the purpose of advertising a special or one-time commercial sales event or commercial celebration event.
 - ii. A temporary sign shall not be installed within a public road right-of-way.
 - iii. A person shall not affix a temporary sign to a property unless that person is an owner of the property of which the sign is affixed.

G. **District Regulations.** Signs are permitted within the various zoning districts according to the following terms:

- 1. **Agricultural District.** Signs in the AG-1 District shall be permitted only in accordance with the following provisions and other applicable provisions of this section:
 - a. For each single-family dwelling in the AG-1 District, there may be one (1) identification sign, which may be a ground sign or wall sign, for each permitted dwelling unit, not exceeding 16 square feet in area and not exceeding six (6) feet in height.
 - b. On a parcel in the AG-1 District that does not contain a dwelling, but which is occupied by an active commercial farm operation, there may be one (1) identification sign, which may be a ground sign or wall sign, not exceeding 16 square feet in area and not exceeding six (6) feet in height.
 - c. One home based business sign is permitted on the same lot or parcel that is lawfully engaged in a permitted home based business. It shall be non-illuminated, shall not exceed four (4) square feet in area, and shall not exceed a height of six (6) feet.
 - d. On any parcel on which there is an active commercial farm operation, crop signs and seed signs may be installed and used, on a temporary basis, within agricultural fields that are used for crop production. Such parcels may also install and use farm certification signs and/or any sign that is expressly permitted by a GAAMP promulgated by the Michigan Department of Agriculture.

- e. Exempt signs are permitted (such as a historic marker for a centennial farm), provided that they comply with the applicable terms and definitions of this section, and provided that such signs are not used for a commercial purpose that is not permitted in the district by this Ordinance.
 - f. A permitted institutional use, such as a church, school, community center, library, museum, art gallery, park, playground, or governmental administrative or service building, may install and use one (1) business sign, which shall not exceed 32 square feet in area and shall not be more than six (6) feet in height.
2. **Residential Districts.** Signs in the R-1, R-2, R-5 and R-6 Districts shall be permitted only in accordance with the following provisions and other applicable provisions of this section:
- a. For each single-family dwelling and two-family dwelling in the R-1, R-2, R-5, and R-6 Districts, there may be one (1) identification sign, which may be a ground sign or wall sign, for each permitted dwelling unit, not exceeding 12 square feet in area and not exceeding six (6) feet in height.
 - b. A platted residential development, a residential site condominium development, apartment complex, PUD or other unified multiple dwelling residential project may have a gateway sign on each street frontage, not exceeding two signs for each development. The gateway sign shall not exceed 32 square feet in area or six (6) feet in height and shall be set back a minimum of 15 feet from the right-of-way line and from all lot lines.
 - c. One home based business sign is permitted on the same lot or parcel that is lawfully engaged in a permitted home based business. It shall be non-illuminated, shall not exceed four (4) square feet in area, and shall not exceed a height of six (6) feet.
 - d. Exempt signs are permitted, provided that they comply with the applicable terms and definitions of this section, and provided that such signs are not used for a commercial purpose that is not permitted in the district by this Ordinance.
 - e. A permitted institutional use, such as a church, school, community center, library, museum, art gallery, park, playground, or governmental administrative or service building, may install and use one (1) business sign, which shall not exceed 32 square feet in area and shall not be more than six (6) feet in height.
3. **Commercial Districts.** Signs in the C-1 and C-2 Districts shall be permitted only in accordance with this section and other applicable provisions of this Ordinance:
- a. Two (2) business signs are permitted for non-residential uses in the C-1 and C-2 Districts.

- b. If a business sign is a freestanding sign, its surface area shall not exceed 32 square feet, except as otherwise allowed by Section 11A.04.I of the Overlay District.
 - c. If a business sign is a freestanding sign, no part of the sign shall be closer than five (5) feet from the street right-of-way, and shall not otherwise obstruct visibility at street intersections.
 - d. If a business sign is a wall sign, its surface area shall be not more than (a) 32 square feet, or (b) 10 percent of the surface area of the face of the building wall to which it is attached (whichever is greater), taking into account the first floor wall area only. Notwithstanding the preceding size limitations, a wall sign may be mounted above the first floor of a building, but not on the roof.
 - e. If a business sign is a wall sign, no part of the sign shall extend farther than 18 inches from the exterior face of the wall to which it is attached. If it is a projecting sign, no part of the sign shall extend farther than 36 inches from the exterior face of the building or wall to which it is attached.
 - f. A unified commercial development may have a single gateway sign on the street frontage of its primary entrance. The gateway sign shall not exceed 48 square feet in area or six (6) feet in height and shall be set back a minimum of 15 feet from the right-of-way line and from all lot lines.
 - g. Exempt signs are permitted, provided that they comply with the applicable terms and definitions of this section.
4. **I-1 Light Industrial District.** Signs in the I-1 District shall be permitted only in accordance with this section and other applicable provisions of this Ordinance:
- a. Two (2) business signs are permitted for permitted business uses in the I-1 District.
 - b. If a business sign is a freestanding sign, its surface shall not exceed 32 square feet, except as otherwise allowed by Section 11A.04.I of the Overlay District.
 - c. If a business sign is a freestanding sign, no part of the sign shall be closer than five (5) feet from the street right-of-way, and shall not otherwise obstruct visibility at street intersections.
 - d. If a business sign is a wall sign, its surface area shall be not more than (a) 32 square feet, or (b) 10 percent of the surface area of the face of the building wall to which it is attached (whichever is greater), taking into account the first floor wall area only. Notwithstanding the preceding size limitations, a wall sign may be mounted above the first floor of a building, but not on the roof.

- e. If a business sign is a wall sign, no part of the sign shall extend farther than 18 inches from the exterior face of the wall to which it is attached. If it is a projecting sign, no part of the sign shall extend farther than 36 inches from the exterior face of the building or wall to which it is attached.
- f. A unified industrial park may have a single gateway sign on the street frontage of its primary entrance. The gateway sign shall not exceed 48 square feet in area or six (6) feet in height and shall be set back a minimum of 15 feet from the right-of-way line and from all lot lines.
- g. Exempt signs are permitted, provided that they comply with the applicable terms and definitions of this section.

H. Signs for Special Land Uses and Planned Unit Development District Uses.

- 1. Signs in and for special land uses shall be permitted only in accordance with the district regulations for the applicable special land use, unless the Planning Commission and the Township Board specifically approves, as part of the special land use procedures under Chapter 21, additional or different signage provisions.
- 2. Signs in and for the PUD District shall be permitted only in accordance with the district regulations for the PUD District, unless otherwise approved by the Planning Commission and the Township Board as part of the PUD District approving ordinance.

I. Billboards. Billboards are a permitted use in the C-2 Commercial District only, subject to the following requirements:

- 1. Not more than three (3) billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the subject street or highway. The linear mile measurement shall not be limited to the boundaries of Polkton Township where the particular street or highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one (1) face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. However, billboard structures having tandem billboard faces (i.e., two (2) parallel billboard faces facing the same direction with one (1) face being directly above the other or side-by-side) shall be considered as two (2) billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection 2 below.
- 2. No billboard shall be located within 1,000 feet of another billboard abutting either side of the same street or highway.
- 3. No billboard shall be located within 200 feet of a residential zoning district and/or an existing dwelling. If the billboard is illuminated, this required distance shall instead be 500 feet.

4. No billboard shall be located closer than 75 feet from a lot line adjoining a public right-of-way or closer than 10 feet from any other lot line of the main lot on which the billboard is located.
5. The surface display area of any side of a billboard may not exceed 300 square feet.
6. The height of a billboard shall not exceed 30 feet above either (a) the grade of the ground on which the billboard sits, or (b) the grade of the abutting roadway, whichever is higher.
7. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
8. A billboard shall be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message. Otherwise, such structure shall be removed.
9. Digital billboards and tri-vision billboards are prohibited. Further, notwithstanding any other provision of this ordinance, no existing billboard (whether conforming or non-conforming) shall be revised, altered, modified, or changed in any way so as to become a digital or tri-vision billboard or so as to incorporate digital or tri-vision technologies.
10. A billboard established within a business, commercial, or industrial area, as defined in the Michigan Highway Advertising Act of 1972 (1972 Public Act No. 106, as amended) bordering interstate highways, freeways or primary highways as defined in said Act shall, in addition to complying with the above requirements, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may be amended from time to time.

J. Nonconforming Signs and Signs Accessory to Nonconforming Uses.

1. **Continuance.** Notwithstanding any other provision of this section to the contrary, a permanent sign which was erected and which already existed as of September 1, 2016, but which does not conform to the height, size, area, location or other requirements of this section, is deemed to be lawfully nonconforming and may continue to be used subsequent to that time, subject to the requirements of this Section J.
2. **Alteration/Repair.** Nonconforming signs shall not be altered, expanded, enlarged, extended, or repaired, without being brought into full compliance with all applicable regulations under this section, except as expressly provided by this subsection J.

- a. A nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use. As with conforming signs, a change solely in the wording of the copy of a nonconforming sign shall not constitute an alteration for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign that is subject to different or more restrictive regulation.
 - b. Routine repair to maintain a nonconforming sign in a safe and aesthetic condition exactly as it existed at the time of the enactment of this section and so as to continue the useful life of the sign shall not constitute an alteration for purposes of this chapter, unless the estimated cost of repair exceeds 50 percent of the appraised replacement cost of the entire sign prior to the repair, as determined by the Township Zoning Administrator. If the estimated cost of repair exceeds 50 percent of that appraised replacement cost, the right to continue using the nonconforming sign shall thereupon terminate and the sign must be brought into full compliance with all applicable provisions and requirements of this section prior to further use.
 - c. In no event shall the alteration of a nonconforming sign result in an increase in the nature or degree of any aspect of the sign's non conformity.
3. **Signs Accessory to Nonconforming Uses.** A sign related to a nonconforming use may be erected in the Township in accordance with the sign regulations for the zoning district in which the property is located.
 4. **Damage or Destruction.** If a nonconforming sign is damaged or destroyed by fire, explosion, flood, wind or other calamity, the sign may be restored to the condition exactly as it existed immediately prior to the damage or destruction, unless the estimated cost of restoration or replacement exceeds 50 percent of the appraised replacement cost of the entire sign prior to the loss, as determined by the Township Zoning Administrator. If the estimated cost of restoration or replacement exceeds 50 percent of that appraised replacement cost, the right to continue using the nonconforming sign shall thereupon terminate and the sign shall be brought into full compliance with all applicable provisions and requirements of this section, prior to further use.
 5. **Abandoned Signs.** Any sign which the Township determines to be abandoned shall be removed by the owner. If the owner does not remove the sign, or if no owner can be found, the Township may remove and dispose of the sign. Signs in the public right-of-way shall be subject to immediate removal by the Township.
 6. **Portable Signs.** Portable signs that are nonconforming with this section, but which existed prior to the effective date of this section, shall be altered to comply with the provisions of this section within 60 days after the effective date of this section, or else they shall be immediately removed.

K. ZBA Approval of Non-Listed Sign.

1. The Zoning Board of Appeals shall have the authority, upon application of a landowner, to permit a type of sign that is not expressly permitted by this Section 4.16; provided, however, that no sign shall be allowed that is expressly prohibited by this Section 4.16.
2. Such applications shall be submitted to the Zoning Board of Appeals as a matter for decision under Section 603 of the Michigan Zoning Enabling Act. In considering the application, the Zoning Board of Appeals shall apply the following standards:
 - a. The proposed sign shall be consistent with the intent of the Township's sign regulations, as stated in Section 4.16.A.
 - b. The size, height and other dimensional characteristics of the proposed sign shall be consistent with the size, height and other dimensional requirements that would apply to the most comparable type of sign that is expressly permitted by this Section 4.16.
 - c. The proposed sign shall not violate any of the requirements of Section 4.16.D.
 - d. The proposed sign shall not present a risk to traffic or pedestrian safety; shall not adversely affect the view shed from any adjacent property; shall not adversely affect the light and air circulation on any adjoining property; and, shall not otherwise present an unacceptable risk to the public health, safety and welfare.

(Section 4.16. amended in its entirety by Ord. No. 101-17.)

SECTION 4.17 ADDITIONAL SETBACKS FOR STRUCTURE ADJACENT TO MAJOR STREETS.

Notwithstanding any other provisions of this Ordinance, no building shall be hereafter constructed, erected or enlarged on a lot abutting a street designated as a major street on the "Polkton Township General Land Use and Circulation Plan," as the same shall be amended from time to time, unless the following minimum building setbacks measured from the right-of-way centerline are maintained.

- A. **Primary Arterials.** One hundred feet.
- B. **Secondary Arterials.** Eighty feet.
- C. **Collector Streets.** Sixty-six feet.

SECTION 4.18 FENCES. (Section 4.18 amended by Ord. No. 06-65.)

No fence in excess of six feet in height shall be erected, constructed, located or maintained in any residential zoning district. In addition, no fence in excess of 36 inches in height (except a split rail

fence) shall be erected, constructed, located or maintained in a front yard in any residential zoning district. No fence shall contain barbed wire unless the fence is used as part of a farming operation. The Zoning Board of Appeals may approve, as a matter for decision under Section 603 of the Michigan Zoning Enabling Act, a fence of a height greater than six feet or a fence of a height greater than 36 inches in the front yard. In considering such approval, the Zoning Board of Appeals shall consider the following standards:

- A. The effect upon adjoining property.
- B. Whether it will affect the light and air circulation of any adjoining properties.
- C. Whether it adversely affects the view from any adjoining property.
- D. The reason for the request to construct a fence higher than permitted by this Ordinance.
- E. The size, type and kind of construction, proposed location and general character of the fence.
- F. The size of other fences on properties which are adjoining and in the surrounding neighborhood.
- G. No fence, hedge or other landscaping shall be erected, constructed, located or maintained in any zoning district which constitutes a traffic hazard because of obstruction of visibility or any other reason.

SECTION 4.19 MINIMUM LOT WIDTH AT STREET FRONTAGE.

All lots or parcels shall have frontage on a public or private street that is equal to at least the minimum lot width for the zoning district in which the lot or parcel is located; provided, however, that minimum frontage for a lot or parcel fronting on a cul-de-sac of a public or private street may be reduced to 40 feet at the front lot line, as long as the lot or parcel meets the minimum width requirement of the zoning district at the minimum front yard setback line. **(Amended by Ord. No. 81-2010.)**

SECTION 4.20 UNWHOLESOME SUBSTANCES.

- A. No unwholesome substance, as hereinafter defined, shall be deposited, dumped, or accumulated by any person on any property, private or public, in the Township, unless such a place has been designated as a public dumping ground or sanitary landfill by the Township and licensed in accordance with all state and federal rules and regulations. For purposes of this section, the term “unwholesome substance” shall be defined to mean any trash, garbage, tin can, automobile body, trailer body, stone, junk, offal, refuse, rubbish, debris, fifth, or any other material which constitutes a threat or menace to the health, safety, or general welfare of the public. For purposes of this section only, the term “automobile body” shall be defined to mean any motor vehicle which (1) is unable to be driven under its own power and/or (2) lacks all the necessary component parts to make it operable and serviceable as a motor vehicle. For purposes of this section only, the term “trailer body” shall be defined to mean arty boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer, or any type of trailer or device used for hauling or moving things, which lacks all of the necessary

component parts to make it operative and serviceable as a trailer to be pulled as such on the highway.

- B. The Township Board shall have the authority to designate property as a public dumping ground or sanitary landfill, when such a use is not otherwise prohibited by this Ordinance. Such designation may be made only after consideration of an application for a Special Land Use Permit, and issuance of such a permit by the Township Board. **(Amended by Ord. No. 81-2010.)**
- C. Each application for a Special Land Use Permit, to designate property as a public dumping ground or sanitary landfill, shall contain the following information:
1. The name and address of the applicant.
 2. The legal interest which the applicant has in the property and the name of the property owner(s).
 3. A site plan, which shall include:
 - a. A topographical illustration of the site at two foot contour intervals.
 - b. Maps which depict the ground water table, drainageways, aquifers, and surface water features on, through, or across the site or within 1,320 feet of it, and any other hydrologic features of the site and the area within 1,320 feet of the site.
 - c. Soil profiles including density and thickness of all clays to a minimum depth of forty feet below the lower of the lowest proposed excavation or the bottom of the primary ground aquifer.
 - d. Existing trees and ground cover.
 - e. Maps depicting the location of existing and proposed streets, roadways, parking areas, entrances and exits as well as pavement, and right-of-way width of all abutting roads and access routes for vehicles hauling refuse or cover material to or from the disposal area.
 - f. Finished grading plan showing proposed elevation at two foot contour intervals.
 - g. Proposed fencing or screening.
 4. The length of time which is estimated that the operation will continue until it reaches its full disposal capacity, and the length of time estimated for the reclamation of the site.
 5. The present use of the site.

6. The expected volume of waste to be placed in the site.
 7. The plan of operation of the site, including at a minimum:
 - a. The types of waste materials proposed to be disposed on the site.
 - b. The reclamation plan for the site.
 - c. Measures which the applicant proposes to take to control adverse off site conditions that might result from on-site noise, vibration, dust, traffic, blowing paper, leachate, vermin, etc.
 - d. Proposed hours of operation.
 - e. Proposed cover material and depth.
 - f. Measures the applicant proposes to take to insure the safety of the public outside the operation site, including the means proposed for preventing access to the site.
 - g. Proposed financial guarantee to assure that the location, development and operation of the public dumping ground or sanitary landfill will be done in accordance with the submitted and approved plans and restored in accordance with the submitted and approved reclamation plan; and financial statements of the owner(s).
- D. The application for special land use approval shall be reviewed pursuant to the procedures of Chapter 21. **(Amended by Ord. No. 81-2010.)**
- E. Reserved. **(Section 4.20.E was amended by Ord. No. 06-65; removed by Ord. No. 81-2010.)**
- F. In considering and deciding whether to approve the special land use, the Planning Commission and Township Board shall consider the following: **(Amended by Ord. No. 81-2010.)**
1. The adequacy of the proposed steps for the prevention of adverse affects on the public health and the environment, including the protection of surface and groundwater quality, air quality, and the land, in this regard the Planning Commission shall consider the following.
 - a. Depth of the water table or tables.
 - b. Proposed depth of the operation.
 - c. Types, locations and densities of soils.
 - d. Location and depth of existing wells, drinking wells, natural or artificial bodies of water, and flood plains.

- e. Number, thickness and depth of sand or gravel lenses on the proposed site.
 - f. Availability, depth, and nature of separation of other aquifers and availability of public water supply.
 - g. Effect of the oration upon existing surface water drainage of the site and adjoining parcels.
2. The need for the particular landfill operation, in light of technically and economically feasible solid waste management options, and in light of the Township's solid waste management needs, and the likelihood that the expected waste stream will adequately finance the operation.
 3. The proposed operation shall be consistent with and promote the intent and purposes of this Ordinance.
 4. The proposed operation shall be of such location, size, and character as to be compatible with adjacent uses of land, and with the orderly development of the District in which situated and of adjacent Districts. The Planning Commission and Township Board shall also consider the following: **(Amended by Ord. No. 81-2010.)**
 - a. The effect of the operation upon property values within one-half mile of the boundaries of subject property.
 - b. The proposed hours of operation.
 - c. The proximity and density of residences to the site, the character and use of adjoining land and structures, and the effect of the proposed use on these.
 - d. The likelihood that the operation will pollute, impair, or destroy the air, water, or other natural resources or the public trust therein.
 - e. The size of the proposed operation.
 - f. The compatibility of the operation with the natural environment of the subject premises and adjoining properties within one-half mile.
 5. The proposed operation shall be consistent with the health, safety, and welfare of the Township residents.
 6. The proposed operation shall be such that traffic to, from, and on the premises and the assembly of persons relating to the operation will not be hazardous, or inconvenient to the neighborhood within one mile of the operation, nor unduly conflict with the normal traffic of the general area of the proposed operation. The Planning Commission shall consider the relationship of the proposed use to main thoroughfares and intersections, interstate, primary and secondary highways, and the general character, intensity, and usage of the main thoroughfares, streets, and

intersections, and interstate, primary and secondary highways which will be affected by the expected traffic which will be indent to the proposed operation.

7. The applicant's financial and technical ability to begin, conduct, and terminate the operation and the applicant's financial and technical ability to provide perpetual care of the site.

G. If a special use permit is granted, the Township Board shall require as conditions of the permit, that the following requirements be observed: **(Amended by Ord. No. 81-2010.)**

1. The Township Board shall determine the hours of operation, which shall in no event be greater than 6 o'clock a.m. to 6 o'clock p.m., and no operation shall be permitted on Sundays and legal holidays. When emergency or temporary conditions require the operation to continue beyond these hours in order to protect the health, welfare, and safety of the Township, the operation may continue with the permission of the Township Supervisor.
2. The operation shall be directed by responsible personnel at all times and access to the site shall tie limited to those times when such personnel are on duty.
3. Access to the operation shall be limited to those persons and vehicles authorized to use the site, and to Township, county, state and federal personnel on official business. Access to the site shall be controlled by a locked gate at any time that refuse is not being delivered or an attendant is not on duty.
4. Filling operations shall only be permitted where the use regulations of the district so provide.
5. An adequate performance bond must be posted in an amount to be established by the Township Board.
6. Duly authorized Township representatives shall have the right to inspect the operation without prior notice to determine compliance with the requirements of the permit anti this Ordinance.
7. No burning of refuse or garbage shall be permitted on the site, unless the prior approval of the Township is obtained. The owners/operators shall reimburse the Township for any fire-fighting expenses which the Township incurs for fire calls on the site.
8. Measures shall be provided and implemented to control dust, blowing paper, insects, rodents, and standing water, and to prevent the escape of these from the premises.
9. Noise levels on the boundaries of the site shall not exceed:
 - a. Seventy five decibels on the A scale where the adjacent property is used agriculturally, residentially, or as open space.

- b. Eighty five decibels on the A scale which the adjacent property is used commercially.
 - c. Ninety decibels on the A scale where the adjacent property is used industrially.
10. Public access roads must be kept free of debris falling off vehicles bringing materials to the site or leaving therefrom.
11. Filling and refuse compaction.
- a. Refuse shall be spread so that it can be compacted in layers not exceeding a depth of two feet of compacted materials. Each two-foot layer of refuse shall be covered by a compacted layer of at least six inches of either sandy clay loam, loam, clay, or sandy loam, as these soils are classified by the U.S. Department of Agriculture.
 - b. A compacted layer of at least six inches of approved earth cover material shall be placed on all exposed refuse by the end of each working day.
 - c. A compacted clay layer with a minimum depth of two feet and a density not less than 10^{-7} cm/sec shall be placed over the entire portion of the final layer of compacted refuse no later than one month after the placement of refuse in that portion. This clay layer shall also be seeded within the same period of time, except during the winter, when seeding may be delayed until weather permits in the Spring. This layer shall be covered within six months of its placement with a minimum of four inches of approved topsoil and seeded with hardy perennial grass. This final cover depth shall be maintained for a period of at least five years, and all cracked, eroded, and uneven areas in the final cover shall be repaired.
 - d. There shall be no filling permitted in any area within the 100-year flood plain, or within 500 feet of any river, creek, lake, or drain, or the wetlands of any body of water, drain, or stream, or any pond larger than five acres; all whether natural or artificial.
 - e. No filling of any material shall be permitted into any ponded water area, marsh, swamps, wetlands, or to any depth less than 20 feet above the highest expected water table on the site.
 - f. No filling shall be permitted within 1,320 feet of any residential structure.
 - g. No filling shall be permitted within 300 feet of any perimeter property line, within 1,000 feet of the public right-of-way of any interstate, primary, or secondary highway, or within 300 feet of any other public road right-of-way.
12. Suitable permanent facilities and equipment shall be maintained on the premises including, at a minimum, shelter and sanitary facilities for persons working on the

site, a readily accessible telephone, and fire prevention and fire control measures and equipment.

13. The final elevations of the completed disposal area, including the final cover, shall not exceed 35 feet above the average elevations existing prior to the use of the premises as a disposal area. In the case of land significantly depressed from land parcels, the Planning Commission may permit greater elevations than those above, but in no case shall they exceed 35 feet above the grade of adjoining land parcels. The slope of the final grade shall not be steeper than one to four, i.e., one unit of vertical rise for every four units of horizontal run.
 14. The Township Board shall require such testing and monitoring of water supplies within 3,000 feet of the site as it deems necessary to preserve, protect, and promote the public health, safety, and welfare. At a minimum, such testing shall be done prior to construction to establish benchmarks for future tests. **(Amended by Ord. No. 81-2010.)**
 15. Payment of the permit fee established by the Township Board by resolution.
 16. The applicant/owner/operator shall agree in writing to save, hold harmless, and indemnify the Township, from any claim whatsoever that may arise out of the issuance of any permit, or that may arise in any way from the operation of the proposed disposal area, including providing the cost of defense in the event of the prosecution of any such claim.
 17. The owner/applicant/operator shall agree to compensate property owners within a reasonable distance of the operation for diminution in value of their property upon reasonable proof that such loss was due to the operation.
 18. No permit issued to any person to operate a public dumping ground or sanitary landfill shall be transferable or assignable by the person(s) to whom it is issued without the consent of the Township. If there is any change in the ownership of a corporation or partnership, such changes shall require, for purposes of this section only, a request to the Township that the new owners be permitted to continue the operation.
 19. The disposal of human wastes, animal wastes, hazardous or toxic materials, and dead animals, is specifically prohibited.
- H. Any permit issued under this section may be suspended by the Township Board, for a period of not more than 30 days whenever:
1. A provision of this Ordinance is violated, or a condition of the permit is not being observed.
 2. It is necessary to preserve or protect public health, welfare, or safety.
 3. Permit fees have not been paid.

A permit issued under this section may be permanently revoked by the Township Board whenever:

4. The owner/operator deliberately violates a provision of this Ordinance, or condition of the permit.
 5. Fails to observe the requirements of this Ordinance and conditions of the permit. The Township Board shall review the operation to determine whether the permit shall be revoked, upon the second suspension of the permit for a failure to observe the requirements of this Ordinance or condition of the permit.
- I. Any such permit issued under the provisions of these sections shall be valid for a three-year period, unless renewed by the Township Board for a like period. The Township Board may renew such permit if: **(Amended by Ord. No. 81-2010.)**
1. Reasonable progress has been made in the construction of the disposal area.
 2. The disposal operation has conformed to the approved plans, conditions and requirements of this Ordinance.
 3. Permit fees have been paid.

(Section 4.20.J repealed by Ord. No. 06-61.)

SECTION 4.21 DANGEROUS BUILDINGS.

No dangerous building, as hereinafter defined, shall be kept or maintained on any property. For purposes of this section only, the term “dangerous building” means any building or structure which has any of the following defects or is in any of the following conditions:

- A. Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the Township Building Code.
- B. Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the Township Building Code for a new building of similar construction, purpose or location.
- C. Whenever any portion or member of appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- D. Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is in the case of new construction by Michigan Act 167 of 1917, as amended, or the Township Building Code.
- E. Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground

necessary for the purpose of support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

- F. Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.
- G. Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their damage, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.
- H. Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the Zoning Administrator, or is likely to work injury to the health, safety or general welfare of those living within. **(Amended by Ord. No. 81-2010.)**
- I. Whenever any building or structure becomes vacant, dilapidated and open at door or window, leaving the interior of the building or structure exposed to the elements or accessible to entrance by trespassers.

SECTION 4.22 MOVING OF BUILDING.

No existing building or structure of any type or kind shall be moved into the Township or moved from a lot in the Township to another lot in the Township unless first authorized by the Zoning Administrator pursuant to Section 15.03 of this Ordinance. In considering such authorization, the Zoning Administrator shall consider the following standards:

- A. For site-built buildings or structures the Zoning Administrator shall consider the following:
 - 1. The type and kind of construction of the existing structure or building in relation to its strength and whether or not said structure or building may be a fire hazard.
 - 2. Whether the building or structure would comply with the requirements of Section 4.30 of this Ordinance.
- B. The Zoning Administrator shall not permit a building or structure utilizing balloon construction to be moved into the Township or moved from a lot in the Township to another lot in the Township under any circumstance.
- C. For mobile homes the Zoning Administrator shall consider the following requirements and restrictions:
 - 1. A mobile home that bears a HUD certification, which has not been structurally altered so as to void that certification, and which was manufactured after the year 1977, may be moved or relocated to a lot in the Township if the mobile home otherwise complies with the requirements of Section 4.30 of this Ordinance.

2. A mobile home manufactured after 1977 that has been structurally altered so as to void its HUD certification may be moved or relocated to a lot in the Township only if the owner presents engineering documentation to the Building Inspector showing that the mobile home complies with Section AE102 of the Michigan Residential Code, and only if the mobile home otherwise complies with the requirements of Section 4.30 of this Ordinance.
 3. A mobile home manufactured in or prior to 1977 shall not be moved or relocated to a lot in the Township under any circumstance.
- D. For the moving of any type of structure or building the Zoning Administrator shall examine the proposed transportation route through the Township to insure its safe and convenient passage can be accomplished.

SECTION 4.23 REPAIR AND CLEAN-UP OF DAMAGED OR DESTROYED BUILDINGS.

The owner of any building or structure which has been damaged or destroyed by fire, windstorm or other casualty shall repair such damage within one year after its occurrence. In the event the building or structure is damaged beyond repair, any part left standing after such damage or destruction shall be razed pursuant to a permit therefor to be granted pursuant to Section 4.04.

SECTION 4.24 HEALTH DEPARTMENT APPROVAL.

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, does not comply with the Rules and Regulations governing Waste and Sewage Disposal of Ottawa County.

SECTION 4.25 GOVERNMENTAL IMPROVEMENTS.

The provisions of this Ordinance shall be applicable to and enforceable against the Township itself and all other federal, state or local governmental agencies and units, except when otherwise provided by law.

SECTION 4.26 OUTDOOR PONDS.

- A. **Permitted Districts.** An outdoor pond may be permitted as a special land use in any zoning district as a principal use or as an accessory use.
- B. **Special Land Use Approval Required.** No person shall erect, install, locate or construct an outdoor pond, unless it has first been approved by the Township Board as a special land use under Chapter 21 of this Ordinance, subject to the following additional regulations and requirements: **(Amended by Ord. No. 81-2010.)**
 1. The outdoor pond shall be used for recreation, pleasure or agricultural use only. **(Amended by Ord. No. 81-2010.)**

- a. The creation of any pond for the sole or additional purpose of mineral extraction shall require, in addition to special land use approval under this section, the issuance of a PMR Permit under Section 4.27 or the issuance of a special land use permit under Section 4.27A, as appropriate, depending on the cubic yards of mineral material to be removed.
 - b. Mineral extraction activities, whether conducted alone or in conjunction with the construction of an outdoor pond, shall not be permitted on any lands located outside the AG-1 District.
 - c. Construction of an outdoor pond may be permitted on any lands located outside of the AG-1 District, if not performed for the purpose of mineral extraction, but the Township Board may nonetheless impose any conditions on the special land use permit for the outdoor pond that would be consistent with the requirements imposed on mineral extraction activities pursuant to Sections 4.27 or 4.27a of this Ordinance. In particular, the Township Board may, in its sole discretion, require the applicant to submit a performance bond in an amount sufficient to restore the area of the pond to its original grade and the Township Board shall not release the same until the applicant demonstrates to the satisfaction of the Township Board that the pond is being used for the recreation, pleasure or agricultural use originally proposed by the applicant. **(Amended by Ord. No. 81-2010.)**
2. At a minimum, an outdoor pond shall comply with all the yard requirements for the zoning district in which it is located. The Township Board may increase the minimum setbacks for ponds when, in its discretion, such is determined to be necessary to minimize potential public health and safety concerns or conflicts with adjoining properties. **(Amended by Ord. No. 81-2010.)**
 3. If the Township Board determines that the protection of the safety of the general public requires that the pond be enclosed, the Township Board may require that the pond be enclosed by a wall, fence, or other type of enclosure. The wall, fence, or other enclosure shall meet the following requirements: **(Amended by Ord. No. 81-2010.)**
 - a. The height of the enclosure shall be at least four feet above ground surface.
 - b. The enclosure shall be designed so that a child cannot pass through or under, or climb over it, except through a gate or doorway.
 - c. All gates or doors leading to the pond, except a door in any building forming part of the enclosure, shall be kept closed when the pond is not in actual use or when the owner is absent or away. The gates and doors shall be fitted with a positive latching device which automatically latches when the gate or door is closed.

4. The pond shall be constructed according to the applicable specifications of the Ottawa County Soil and Water Conservation District and Michigan Department of Environmental Quality (“MDEQ”).
5. The discharge pipe from any pond without a direct outlet to an established drain shall not exceed four inches in diameter and shall be constructed with galvanized iron or such other standard and durable material as may be approved by the Zoning Administrator.
6. No pond shall be wholly or partially emptied in any manner that would cause water to flow upon other property. If a storm drain is readily accessible to the lot or parcel on which the pond is located, then the pond’s outlet shall empty into such storm drain. Discharge into a public sanitary sewer is prohibited.
7. No public water shall be used in connection with the filling or operation of a pond when limitations on the consumption and use of public water are in effect.
8. The slopes of the banks or sides of the pond shall be constructed so that for each one foot of rise there shall be a minimum of three feet of run. This minimum slope must be maintained and extended into the pond water to a depth of five feet below the water’s surface.
9. If the Township Board determines that adherence to one or more of the above construction standards is unnecessary or contrary to the public interest, the Township Board may waive or modify such standard. In addition, the Township Board may waive or modify one or more of the above standards if the pond is for use as part of a bona fide aquaculture operation carried out in an AG-1 District or the pond is a detention/retention facility required for storm water management purposes. **(Amended by Ord. No. 81-2010.)**
10. No pond shall be constructed, installed or maintained which either causes or contributes to the erosion of any adjacent, abutting or nearby lands.
11. No pond shall be constructed, installed or maintained which creates stagnant water. To that end, all ponds shall have an aeration device installed therein or shall utilize such other comparable measures so as to ensure that the existence and use thereof will not cause or spread disease or otherwise cause conditions that are hazardous to the public health.

C. **Application Requirements.** An application for approval of a special land use permit for an outdoor pond shall include the following:

1. The name of the person who is or will be the owner of the pond.
2. The location of the proposed or existing pond.
3. The safety precautions to be taken to protect those using the pond or who might be endangered by it.

4. The size, depth, and water capacity of the pond.
5. The method of filtration and treatment of the water, if required.
6. Plans for the duration of activities relative to the offsite removal of excess material, such as sand and gravel, if any.
7. Any further information necessary for the protection of public health, safety and environment, as may be required by the Planning Commission or Township Board. **(Amended by Ord. No. 81-2010.)**
8. The application must also include a site plan of the land on which the pond is to be located. The site plan shall comply with the requirements of Section 16A.03 and shall also include the following:
 - a. Lot lines.
 - b. Proposed location of the outdoor pond.
 - c. Location of any wall, fence, or enclosure around the pond.
 - d. Location of gates or doors in the fence, wall, or enclosure.
 - e. Location of all buildings on the premises.
9. The application shall also include a description and sketch of the construction of the pond and of the wall, fence, or enclosure.
10. The Planning Commission or Township Board may require the submission of soil borings, runoff quantities and other relevant hydrogeological data to ensure that the proposed pond is capable of being maintained and supported with adequate water volumes. **(Amended by Ord. No. 81-2010.)**

D. Exception for Farm Manure Storage Facilities. An outdoor pond used for farm manure storage shall not require special land use approval under this section if the following requirements are met:

1. The storage facility shall be set back from all adjacent lot lines and road right-of-way lines in accordance with Michigan Department of Agriculture siting guidelines; and,
2. The owner shall, prior to construction of the storage facility, apply for and obtain a zoning permit from the Zoning Administrator pursuant to Section 15.03 of this Ordinance. The permit application shall be accompanied by written documentation, demonstrating that the storage facility will comply with all applicable generally accepted agricultural and management practices, as promulgated by the Michigan Department of Agriculture, and will meet the construction standards of the Natural Resource Conservation Service. **(Subsection D amended by Ord. No. 81-2010.)**

SECTION 4.27 PLANNED MINERAL REMOVAL.

- A. **Description, Intent and Purpose.** These Planned Mineral Removal (“PMR”) provisions are adopted for the purpose of authorizing the removal of mineral material equaling or exceeding 5,000 cubic yards from specified lands within the Township through the special land use approval process, and also for the purpose of authorizing resulting land uses, after the completion of planned mineral removal operations, in accordance with an approved site rehabilitation plan. Under the terms of any PMR permit, mineral removal is required to be accomplished without serious adverse consequences to other lands and other land uses in the vicinity and elsewhere in the Township.
- B. **Definitions.** The following words and phrases used in this section shall have the following respective meanings:
1. “Mineral material” means soil, dirt, earth, sand, gravel, coal, gypsum, limestone, or any of them, or any combination thereof, or other solid minerals.
 2. “Mineral removal” is the mining, extracting, excavating for, processing, removal and transport of mineral material to and/or from any property in the Township, or any of such activities, and other operations and activities for the purpose of removal of mineral material and the restoration, reclamation and improvement of the lands thereafter, where all or any of such operations and activities involve a total of 5,000 or more cubic yards of mineral material.
 3. “Planned Mineral Removal” (“PMR”) is the mining, extracting, excavating for, processing, removal and transport of mineral material to and/or from any property in the Township, and other operations and activities for the purpose of removal of mineral material and the restoration, reclamation and improvement of lands thereafter, where such operations and activities involve a total of 5,000 or more cubic yards of mineral material, and where the same are accomplished in accordance with a plan submitted, considered and approved, as a special land use, in accordance with this section, and providing for the design, review and approval of mineral removal activities and operations; the restoration, reclamation and improvement of the lands thereafter; and the use of such lands for permitted resulting uses.
- C. **Planned Mineral Removal and Other Permitted PMR Uses.**
1. Land, including the buildings and structures thereon, that is subject to a PMR permit may be used only for planned mineral removal and/or for the uses permitted and as regulated in the AG-1 District. Planned mineral removal shall take place only in accordance with the provisions of this section. Any resulting use, following mineral removal activities and operations, shall conform to the Township Master Plan. Proposed PMR uses shall be considered for approval under this section only if all of the conditions for eligibility and requirements permit applications are complied with, as set forth in this section.
 2. No lands shall be considered for a PMR permit unless they are located in the AG-1 District.

D. **Application for PMR Permit.** Applicants proposing an eligible PMR use shall submit an application for a PMR permit, together with the required application fee, to the Township Clerk, who shall forward the application to the Zoning Administrator for a determination of whether the application is administratively complete, prior to Planning Commission review. The application shall be accompanied by any required deposit into an escrow account for reimbursement of Township expenses in the matter, and shall include the following:

1. A legal description of the lands proposed for the PMR use.
2. Twelve copies of a PMR plan, drawn and sealed by a registered civil engineer, and including the following:
 - a. A north arrow, scale and date.
 - b. Shading or other marking showing the lands on which mineral removal operations and activities will take place.
 - c. The location, width and grade of all easements or rights-of-way on or abutting the lands.
 - d. The location and nature of all structures on the lands.
 - e. The identification, location and direction of all watersheds, streams and other water courses whether on or off the removal site and storm water drainage areas and flow ways on the lands, and also all water courses and storm water drainage areas or flow ways on other lands which may be affected by the mineral removal operations.
 - f. Existing elevations of the lands at contour intervals of not more than five feet.
 - g. Copies of logs of all existing water supply wells on the mineral removal lands and on all adjacent lands.
 - h. Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material located in or on the lands, and the groundwater table.
 - i. Mineral processing and storage areas; and areas for stockpiling mineral material.
 - j. Proposed fencing, gates, parking areas and signs.
 - k. Roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust, dirt and other debris generated by mineral removal activities and movement of vehicles.

- l. A map showing access routes between the subject lands and the nearest major streets, and also showing the streets and routes proposed to be used for the hauling of mineral material and the return of trucks to the site.
 - m. Areas if any to be used for ponding or other accumulation of water.
 3. A narrative description and explanation of the following:
 - a. The proposed mineral removal operations and activities including a narrative description and explanation of the proposed mineral removal operations and activities, including the date of commencement, proposed hours and days of operation, estimated type and quantity of mineral material to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to insure compliance with the provisions of this section.
 - b. A detailed listing and description of the potential serious adverse consequences that may result from the proposed mineral removal operations and activities, and the measures proposed, if any, for the avoidance or moderating of such adverse consequences.
 4. A site rehabilitation plan including the following:
 - a. A description of the restoration, reclamation and improvement of the lands, and the proposed resulting uses for the lands after mineral removal activities have ended, including any phasing of proposed site rehabilitation and the timing thereof.
 - b. A plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five feet; water courses, ponds or lakes, if any; landscaping and plantings; areas of cut and fill; and all land features, improvements, streets and other aspects of the proposed uses for the lands after completion of mineral removal operations.
 - c. A description of all adverse effects, whether anticipated or reasonably possible, on the groundwater table and other underground sources of water supply, together with copies of reports or studies analyzing the effect, if any, of the mineral removal operations on the underground water supply of the subject land and adjacent and nearby lands.
 - d. A description of proposed methods or features which will assure that the resulting uses are feasible and will comply with the Township Master Plan and all applicable requirements of this Ordinance.
 5. An environmental impact statement, including the following:

- a. A current aerial photograph, at a scale of not less than 100 feet to one inch, displaying the lands proposed for a PMR permit and all other lands within 1,000 feet thereof, and also showing the location of current land uses, types and extent of existing natural features, topography, soils, vegetation, wild life habitat and other items or land features noted in the environmental impact statement.
 - b. A description of the type and extent of significant vegetation on the lands proposed for a PMR permit, including trees and endangered plant species.
 - c. A detailed description of any known, anticipated or possible adverse or detrimental effects upon any aspect or element of the environment, including lands proposed for a PMR permit and adjacent and nearby lands.
6. Such other studies, reports and assessments that may be requested by the Planning Commission or Township Board, including though not limited to, a traffic impact study; a listing of known existing mineral removal operations within the Township and within reasonable proximity of the Township, including estimated quantity and type of mineral material available for removal and other aspects of such operations; and other reports, studies or information that may be requested by the Township with respect to the proposed PMR operations.

E. **Standards of Review for PMR Permits.** Before consideration thereof by the Township Board, the Planning Commission shall review each PMR permit application. In such review, the Planning Commission shall consider, among other matters, the intent and purpose of this section and the Zoning Ordinance. The Planning Commission shall recommend approval of a PMR permit application, and the Township Board shall consider the same for approval, only if all of the following standards, conditions and requirements are satisfied by the application, the PMR plan, the Site Rehabilitation Plan and the other materials required to be submitted under the terms of this section.

1. Operations and activities for mining, extracting, excavating for, processing, removal and transport of mineral materials shall be located only as follows:
 - a. They shall be not closer than 500 feet from any occupied dwelling, unless a closer distance to such an occupied dwelling is authorized by the Planning Commission and Township Board in the approval of the PMR operations.
 - b. They shall be not closer than 500 feet from any R-1 or R 2, R-5, R-6 or Residential PUD District.
 - c. They may be located without any setback from a boundary line of adjacent lands for which a PMR permit has been granted if such adjacent lands are owned by the owner or operator of the subject lands, and if such zero-setback is approved, or if some other setback is approved, by the Planning Commission and Township Board as a provision in the PMR permit.

2. There shall be not more than one entrance to and exit from the site of PMR operations, from and to a public street, unless additional entrances or exits are approved as a part of the PMR permit. Any such entrance and exit shall be subject to the approval of the Ottawa County Road Commission. The location of the entrance and exit shall, if reasonably feasible, be placed so that the travel of mineral transport vehicles over primarily residential streets shall be avoided.
3. Not more than 21 acres of land shall be authorized for PMR operations or activities at any one time. Of this number or some lesser number of acres, not more than one-third thereof shall at any one time be used for site preparation; not more than one-third thereof shall at any one time be used for removal of mineral material; and not more than one-third thereof shall at any one time be used for site reclamation, in accordance with an approved site rehabilitation plan.
4. There shall be an inspection by the Township Zoning Administrator of each completed phase, so as to verify compliance with the terms of this subsection.
5. Upon the completion of each phase, the applicant shall notify the Township that the phase is ready for inspection, and the Township shall make the inspection within a reasonable time. Until such inspection is made, and until approval of the completed phase has been given by the Township, the applicant shall not commence work on any subsequent phase.
6. Any work or other action undertaken by the applicant in or with respect to a subsequent phase, before the Township inspection and approval of the previous phase, shall be a violation of the PMR permit and a violation of the Zoning Ordinance. In that event, the Township may take all appropriate enforcement measures, including issuance of an order for the stopping of all work within the PMR lands, until all required inspections have been made and Township approvals given.
7. Each Site Rehabilitation Plan shall be reviewed by the Planning Commission and Township Board and shall comply with all of the following standards and requirements:
 - a. Topsoil shall be replaced on the site to a depth of not less than six inches, except where the resulting uses do not involve the growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed resulting use. The plan shall indicate any phasing of site rehabilitation. If site rehabilitation is to be phased, topsoil shall be replaced and slopes shall be graded, stabilized, and seeded before mineral removal operations are commenced in another area of the PMR site. The placing of top soil and the grading, stabilization and seeding of slopes shall take place not only at the end of PMR operations at the site, but also upon the conclusion of each mineral removal phase, as described in subparagraph E.3 of this section.

- b. Final slopes shall have a ratio of not greater than one foot of elevation within each three feet of horizontal distance, at the conclusion of PMR operations at the site and also at the conclusion of each individual phase of mineral removal, as described in subparagraph E.3 of this section.
- c. Final surface water drainage courses and areas of surface water retention shall be laid out and constructed at such locations and in such manner as to avoid adverse effects on adjacent or nearby lands as a result of storm water runoff, erosion or other damage to the lands, at the end of PMR operations at the site and also at the conclusion of each mineral removal phase, as described in subparagraph E.3 of this section. The applicant shall apply for any required storm water permit under any Township Storm Water Ordinance provisions, and the site rehabilitation plan shall comply with any Township Storm Water Ordinance provisions.
- d. Plantings/Landscaping.
 - i. Plantings of grasses, shrubs, trees and other vegetation shall be located on the site so as to maximize erosion protection, and enhance the natural beauty of the site, and for the screening of view from other lands.
 - ii. Landscaping shall be planted and maintained, and, where appropriate, earthen berms shall be constructed, in order to screen less attractive areas or resulting uses. In addition, landscaping and/or earthen berms may be required in order to screen PMR operations and activities from view from other lands and to moderate noise levels from operations of equipment and vehicles.
 - iii. Trees and shrubbery shall be of such height when planted and shall be planted sufficiently close together so as to serve as effective screening of the view from adjacent lands and to moderate noise levels from operations. Dead or diseased trees and other vegetation shall be promptly removed and replaced, so as to assure the continuance and effectiveness of any landscaped screening.
- e. The site rehabilitation plan, both at the end of PMR operations at the site, and with respect to each mineral removal phase, shall not include the storage or dumping of stumps, concrete, asphalt, discarded materials or any other materials, objects or debris not associated with the mineral removal operations. Further, no such storage or dumping of any such materials shall occur at any other time during PMR operations, unless authorized in the PMR permit or the plan.
- f. The resulting uses shall conform to the uses designated for the lands by the Township Master Plan. In reviewing proposed resulting uses, the Planning Commission and Township Board shall require compliance with the

requirements of the zoning district which authorizes land uses having the greatest similarity to the resulting uses proposed in the Site Rehabilitation Plan, including requirements relating to density, location, bulk, area and height of buildings and structures.

8. The Planning Commission shall not recommend approval of an application for a PMR permit, nor shall the Township Board approve the same, unless the applicant sufficiently demonstrates that the proposed mineral removal operations and activities will not create any very serious adverse consequences or serious environmental impact on adjacent or nearby lands or other lands elsewhere in the Township or the area.
 - a. The Planning Commission and Township Board, in considering whether any such very serious adverse consequences or serious environmental impact would result from the proposed removal operations and activities, shall determine the degree and extent of public interest in the removal of the minerals from the applicant's land, considering the type of resource involved, the market demand and availability of supply, and other relevant factors and conditions which determine the relative benefit to the public from the proposed removal operations and activities.
 - b. The Planning Commission shall recommend a PMR permit, and the Township Board shall approve such permit, only if the proposed removal operations and activities do not, considering the nature and extent of public benefit from the resource removal, result in very serious adverse consequences or serious environmental impact. Safety concerns and additional noise occasioned by the proposed operations, including additional truck traffic; decreased air quality caused by dust and odors from the operations and truck traffic; diminution of nearby property values; decrease in residential or other development in the area; loss of property tax revenues and other relevant factors may be considered in determining whether very serious adverse consequences or serious environmental impact would result from the removal operations and activities.

F. **Operating Conditions on Mineral Removal Operations and Activities.** The Planning Commission's recommendation for approval of any PMR permit, and the Township Board's approval of the same, shall include provisions requiring compliance with specified conditions relating to mineral removal activities and operations. Such conditions shall include the following:

1. Mineral removal operations shall be approved for a duration of not more than three years, unless the Planning Commission and Township Board determine that there are extraordinary circumstances which justify a removal period of greater duration.
 - a. Upon or prior to the expiration of a PMR permit, the Planning Commission may recommend and the Township Board may approve renewals of the permit for successive periods of not more than three years each in duration, if

the applicant demonstrates that there are extraordinary circumstances justifying renewal of the PMR permit.

- b. In considering whether to recommend that a PMR permit be renewed, the Planning Commission may, but need not, convene a public hearing. Likewise, in considering whether to approve a renewal of a PMR permit, the Township Board may, but need not, convene a public hearing.
 - c. In the case of any Planning Commission or Township Board public hearing on the proposed renewal of any PMR permit, the public notice for any such hearing shall be the same as that otherwise required for the original granting of a PMR permit.
 - d. Other matters concerning renewal of PMR permits shall be as provided in subsection N.
2. Mineral removal, processing and transport operations and activities shall commence not earlier than 7:00 a.m. and shall continue not after 5:00 p.m., Monday through Saturday only. However, the Planning Commission and/or Township Board may place additional and/or alternative limitations on the hours and days of operation in order to avoid serious adverse consequences upon adjoining or nearby lands. Mineral removal activity of all types are prohibited on Sundays and on the following legal holidays: New Year's Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving; and Christmas.
 3. Equipment for the processing of mineral material which emits noise louder than 80 decibels, measured at a distance of 50 feet from said equipment when operating, shall not be located closer than one-quarter mile from the nearest occupied dwelling, unless the Planning Commission or Township Board authorizes other noise emission requirements.
 4. Access to and from a mineral removal site, and the routes to be taken by vehicles hauling mineral material from the site and returning to the site, shall be only by means of those streets designated on the approved PMR Plan or by such other routes as may be specified by the Planning Commission or Township Board as a part of the operating conditions attached to the PMR permit.
 5. Non-Operating Hours.
 - a. During activities and operations for the removal of mineral material, no mineral material or other excavated material, shall be left during weekends or overnight in such condition or manner as to constitute a danger to persons who may enter the removal area.
 - b. After operations each day, all banks of excavated material shall be graded to slopes that are not steeper than one foot of elevation for each two feet of horizontal distance, unless the Planning Commission or Township Board authorizes some other daily grading requirement and if the applicant takes

approved measures so as to prevent harm to persons who may enter into the area of steep slopes, by constructing and maintaining a substantial fence, of at least four feet in height, so as to fully enclose all the areas of steep slopes. Alternatively, the Planning Commission or Township Board may approve other measures deemed sufficient to protect persons from harm within the removal area during times when operations are not occurring.

6. All entrance and exit roads and other routes into or from the PMR site shall be securely gated. Such gates shall extend across the entire width of any entrance or exit road or route, and they shall be locked securely when PMR operations are not occurring. The placement of any such gates shall be at such locations as will prevent unauthorized vehicles from entering the PMR lands.
7. All roads, trails or other areas used by vehicles in mineral removal operations or activities shall have gates at specified locations. Measures to control dust and dirt arising from mineral removal operations shall be undertaken in accordance with conditions included in the PMR permit. Such dust control measures may include the application of dust inhibiting solvents or similar non-polluting surface treatments, particular road-surfacing measures or other actions as specified in the PMR permit.
8. Storm water drainage on and from the mineral removal site shall be controlled so that adjacent or nearby lands will not be adversely affected by surface water drainage, erosion or other similar effects. The mineral removal site shall be contoured and graded so as to avoid the unintended impoundment of water, except where ponds or other bodies of water are proposed in an approved site rehabilitation plan.
9. Unless authorized by the terms of a PMR permit, no storage of soil from lands outside the mineral removal area, nor the dumping, disposal, storage or stockpiling of stumps, concrete, asphalt, discarded building materials or other waste or discarded material may take place on the mineral removal site.
10. Before the commencement of mineral extraction activities on the PMR site, 4" x 4" white painted posts, a minimum of five feet in height above grade, shall be placed along the designated setback lines around the site. Such posts shall be placed at a distance, not to exceed 300 feet, from post-to-post. The posts should be placed at intervals so that, from the location of any post, two additional posts are visible.
11. Any processing plant and all equipment for sorting, crushing, loading, weighing, and other operations, shall not be located closer than 200 feet from any property line, 300 feet from a public highway, measured from a centerline, and 500 feet from any existing dwelling.
12. Any processing plant shall be located within the excavation area, and, if possible, shall be located at a point lower than the general level of the surrounding terrain, so as to reduce the visual and sound impact of the processing plant.
13. Before the commencement of mineral removal activities, a fence of a type approved by the Planning Commission or Township Board shall be erected around the

perimeter of the site, in locations approved by the Planning Commission or Township Board, and it shall be maintained in good condition until all mineral extraction activities have been completed.

14. The Planning Commission or Township Board may require the posting of “keep out – danger” or similar signs, placed every 100 feet along the entire perimeter fence.
15. No blasting shall be allowed at any time as part of any mineral removal activities.
16. The Planning Commission or Township Board may require compliance with such other conditions as may be necessary to assure compliance with the terms of this section. Such conditions may include, though are not limited to, weed control; erosion and sedimentation controls; measures to prevent the tracking of dirt and other debris onto public streets; fencing and other visual screening; groundwater monitoring wells; preservation of trees and other vegetation; and limitations on the loading or storage of fuel for vehicles and equipment.

G. **Public Hearing Procedures.** No PMR permit shall be granted unless and until a public hearing is conducted in accordance with the following requirements:

1. The Planning Commission shall convene a public hearing before recommending action by the Township Board on any application for a PMR permit.
2. The giving of public notice for the public hearing and the convening of the hearing shall proceed in accordance with Section 15.08 of this Ordinance. (**Amended by Ord. No. 06-65.**)
3. In its discretion, the Township Board may convene a public hearing upon any application for a PMR permit or an application for the renewal of a PMR permit, after receiving the recommendation of the Planning Commission on the same. If the Township Board convenes a public hearing, public notice and the procedures therefore shall be in accordance with subsection G.2, above.

H. **Approval and Issuance of PMR Permit.** Applications for and issuance of PMR permits shall be approved only in accordance with the following procedures:

1. **Planning Commission Recommendation.** After the public hearing as required above, the Planning Commission shall recommend that the Township Board either approve, deny, or approve with conditions any application for a PMR permit.
2. **Consideration by Township Board.**
 - a. After receiving the recommendation of the Planning Commission with regard to an application for a PMR permit, the Township Board shall approve, deny or approve with conditions the application for a PMR permit.
 - b. If in considering the PMR permit as recommended by the Planning Commission, the Township Board considers changes in the terms of the

permit, the Board may approve, deny or approve with conditions the application for a PMR permit, whether or not the proposed changes therein have been recommended by the Planning Commission.

3. **Issuance of Permit.** The Zoning Administrator shall issue a PMR permit, without further public hearing, if such permit is granted by the Township Board, and further provided that the applicant has first submitted a performance bond and proof of insurance, as required by subsections H.4 and H.5.
 4. **Performance Bond.**
 - a. An applicant for a PMR permit shall submit a performance bond, with an approved surety, in an amount approved by the Planning Commission or Township Board. The performance bond shall be conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the PMR plan and the PMR permit.
 - b. The performance bond shall not be refunded or reduced until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection and approval by the Township.
 - c. If the applicant proposes to create a pond or lake on all or part of the PMR premises, the Planning Commission or Township Board may nonetheless require the applicant to submit a performance bond in an amount sufficient to restore the area of the pond or lake to its original grade.
 - d. If the performance bond is revoked or if it expires and is not renewed, the Township shall immediately suspend and shall not thereafter reinstate or approve the renewal of the PMR permit, until such bond has been satisfactorily reinstated.
 5. **Insurance.** Prior to the issuance of a PMR permit, the applicant shall file with the Zoning Administrator a site-specific liability insurance policy of not less than \$2 million per occurrence for all liability claims arising out of the mineral removal activities. The liability insurance shall be for the purpose of covering property damage and bodily injury resulting from surface and/or subsurface mineral removal activities and shall name Polkton Charter Township, its elected and appointed officials, employees and agents as additional named insureds. Said insurance shall provide an endorsement that provides that the general aggregate limit of the operator's commercial and general liability apply separately to the site. Failure of the operator, or any persons, firm or corporation named in a policy to maintain such insurance policy shall be cause for revocation of the PMR permit.
- I. **Transferability of Permits.** No permit authorized by this section shall be transferred to a person or party other than the applicant to whom it was issued unless such transfer is first considered and approved by the Planning Commission and Township Board.

- J. **Expiration of Permits.** Mineral removal operations and activities authorized by the terms of any PMR permit shall be commenced not later than one year after issuance of such permit and shall be diligently pursued thereafter, unless the PMR permit provides otherwise. In the absence of timely commencement and diligent prosecution of such operations and activities, the PMR permit shall be of no further force or effect. Mineral removal activities or operations shall not thereafter be commenced unless a new PMR permit has been obtained pursuant to the procedures set forth in this section.
- K. **Re-Application for Permit.** An applicant whose application for a PMR permit has been denied, in whole or in part, by the Township Board shall not re-submit an application covering the same lands, or substantially the same lands, within 18 months after the date of such denial, except that a new application may be submitted and considered if there are significantly changed conditions which are determined by the Planning Commission and Township Board to be sufficient to justify reconsideration of the application.
- L. **Existing Permits.** Upon the effective date of this section, existing special land use permits which have been previously issued under this Ordinance shall continue in effect until, but not after, the authorized amount of mineral material has been removed and any required site rehabilitation completed. In the case of such special land use permits which do not designate the amount of mineral material which may be removed, such permits shall continue in effect for the remainder of the period of time for which they were issued or last renewed. Mineral removal activities and operations shall not thereafter be conducted on the lands covered by the special land use permit unless a PMR permit has been obtained pursuant to the procedures set forth in this section.
- M. **Application Fee; Surveillance Fee.**
1. An applicant for a PMR permit shall pay the established application fee, and shall deposit the required amount into a zoning escrow account, when the application is filed with the Township.
 2. The applicant shall also pay to the Township annually a fee (the “surveillance fee”) to defray the Township’s cost of administration, surveillance and enforcement of the PMR Permit, including but not limited to costs for review of applications, testing, monitoring, sampling, surveying, personnel expenses, enforcement, legal, engineering and other consultant fees, and other related costs and expenses. The surveillance fee shall be calculated and assessed per ton, based on the tonnage of mineral material removed during the entire removal operation. The amount of the per ton fee shall be determined and established by resolution of the Township Board, and may be modified from time to time, in the Board’s sole discretion.
 3. Funds received from the application fee shall be deposited in the Township’s general fund, or in such other Township fund as is established for other zoning application fees. Funds received from the surveillance fee shall be accounted for separately on the books of the Township, as to each PMR permit.

4. The surveillance fee, at the above-stated rate of mineral material removed, shall be paid by the applicant annually. Not later than January 31 of each year, the Township shall notify the applicant in writing to submit copies of load tickets or other written proof accurately showing the total amount of mineral material removed during the preceding year (or during any such lesser preceding period, in the case of the recent commencement or termination of a PMR permit). Such notification by the Township shall indicate a period of time for response by the applicant, and the requested information shall be submitted by the applicant to the Township within that time.

Based upon the amount of mineral material removed as stated in the written response received from the applicant, the Township shall calculate the amount of surveillance fee due and shall then send to the applicant an invoice in that amount. The applicant shall pay to the Township the amount indicated on the invoice within 30 days. In the event that the Township desires further or more complete information as to the amount of mineral material removed, the Township shall notify the applicant accordingly, and the applicant shall respond fully within 30 days.

- a. When the PMR permit expires, the Township shall also notify the applicant to provide in writing a statement of the amount of mineral material removed, since the last previous such statement, and the Township shall then prepare and forward a final invoice for payment of the surveillance fee based upon the above-stated per-ton rate, and the applicant shall promptly pay the amount indicated on the invoice.
 - b. If an expired or soon-to-expire PMR permit is renewed, the Township may retain any surveillance fee amounts then on hand, and apply them to defray the costs of review of the application for renewal and for applicable costs subsequently incurred following renewal of the PMR permit. As in the case of annual surveillance fee payments, the applicant shall furnish to the Township any requested load tickets or other written proof with respect to the amount of mineral material removed during the last removal period before expiration of the PMR permit.
 - c. After expiration of a PMR permit without renewal, the Township shall refund, without interest, any unused surveillance fee amounts that have been received from the applicant.
5. In its discretion, the Township may request from the applicant, and the applicant shall promptly provide, load tickets or other written proof of mineral material removed, at times other than the annual surveillance fee payment period.
 6. As to each PMR permit, the Township shall maintain a record of surveillance fee payments made by the applicant and expenditures made by the Township with respect to the PMR operation.

7. Surveillance fee payments made by the applicant shall not limit the applicant's liability for civil infraction penalties, damages, or other sanctions for violation of a PMR permit, Township ordinances or other laws or regulations.

N. Renewal of PMR Permits.

1. This subsection applies only to the renewal of PMR permits for extraction of minerals from the same location or locations as permitted under an existing PMR permit. Applications for permission to expand mineral removal operations beyond the location approved under an existing PMR permit shall comply with the procedure set forth in this section for issuance of a new PMR permit.
2. If renewal of a PMR permit is desired, an applicant shall apply to the Planning Commission for such renewal at least 120 days before the expiration of the existing PMR permit.
 - a. All of the applicant's rights and privileges arising under the permit shall terminate at the expiration thereof, if the permit has not then been renewed, and in that event all PMR operations covered by the expiring permit shall then cease, except approved emergency operations required to protect the public safety and except as stated in this subsection N.2.
 - b. The termination of rights and privileges under a PMR permit, at the time of expiration of the permit, shall take place even though an applicant may have applied for renewal thereof and even though proceedings for such renewal may have commenced, unless the Planning Commission in its discretion votes by majority vote of those present to temporarily extend an expiring PMR permit during the period required for proceedings to consider renewal of the permit (however, such vote for temporary extension of the permit may be rescinded in the event that the applicant unduly delays such proceedings, whether by action or inaction.)
 - c. Upon the conclusion of proceedings for renewal of a PMR permit, if the permit is renewed, PMR operations may be resumed if and to the extent covered by the PMR permit as renewed.
3. An application for PMR renewal shall consist of the following:
 - a. The Zoning Administrator's Certificate of Compliance, as described in subsection N.4, below.
 - b. A copy of the original application for PMR permit, with an addendum updating the information from the original application and supplying any information missing from the original application.
 - c. A revised PMR plan, drawn and sealed by a registered civil engineer, showing the areas of the site which are currently under excavation, which are in the process of reclamation, and which have been reclaimed.

- d. A narrative describing the extraordinary conditions that justify renewal of the permit beyond the time provided in the original permit.
 - e. The required application fee and any required deposit of funds into an escrow account for reimbursement of Township expenses.
 - f. The Township may require additional information if necessary in the consideration of the requested renewal or the Township may waive any of the above-stated application requirements, but the requirement of the Certificate of Compliance shall not be waived.
4. Neither the Planning Commission nor Township Board shall consider an application for renewal unless the applicant submits a Certificate of Compliance signed by the Township Zoning Administrator, which states that the mineral removal operation, as of the date of signing of the Certificate of Compliance, is in compliance with the present PMR permit and all Township ordinances, and that all required mineral removal fees and escrow deposits have been paid.
- a. Upon request by an applicant for a Certificate of Compliance, the Township shall promptly arrange to have the PMR operation reviewed and inspected. If the Zoning Administrator finds that the operation is in compliance, the Zoning Administrator shall issue a Certificate of Compliance. The Certificate shall also describe any past violations which have been rectified.
 - b. If the Zoning Administrator finds that the operation is not currently in compliance, the Zoning Administrator shall notify the applicant in writing of the steps necessary to cure such deficiency.
 - c. The issuance of a Certificate of Compliance does not require the Planning Commission or Township Board to recommend approval of or to approve a renewal of the PMR permit.
5. In making decisions regarding renewal, the Planning Commission and the Township Board shall apply the standards for approval applicable to new permits under this Ordinance, taking into consideration current conditions in the vicinity, the operational history under the previous PMR Permit, any complaints or comments about the PMR operation, and whether there are extraordinary conditions justifying the renewal. In their discretion, the Planning Commission and/or Township Board may convene public hearings on the PMR Permit renewal application. Conditions may be attached to the renewal which are in addition to or different from those contained in the previous permit.

O. Enforcement.

- 1. Enforcement of the terms of a PMR permit may be directed against the PMR applicant and all operators acting or purporting to act under such permit, or any of them. Full and timely compliance with all of the terms of this section and all of the

terms of the applicable PMR permit is a condition for the continued effectiveness of the permit or for any renewal thereof.

2. In the enforcement of the provisions of this section and those of any PMR permit, the Township may avail itself of all procedures and remedies described in Chapter 18 of this Ordinance and all other remedies provided by law.
3. The Township Zoning Administrator or other designated Township representative shall act as the agent of the Township Board in the administration, supervision and enforcement of PMR permits.
 - a. The Township Zoning Administrator or other designated Township representative shall be entitled to access to the applicant's PMR lands during reasonable business hours, for the purpose of verifying compliance with the PMR permit requirements and requirements of this Ordinance.
 - b. The Zoning Administrator is authorized to demand compliance with the terms of this section and the PMR permit. In the absence of such compliance, the Zoning Administrator may issue an order directing the applicant and any operator to cease immediately all mineral removal work on or from the premises and all other operations relating thereto.
4. Upon the issuance of a stop work order, the applicant and any PMR operator shall have no further right or privilege to continue or to conduct any PMR operations, except permitted emergency operations required to protect the public safety and except any authorized limited operations which may be authorized by any such order.

P. **Zoning Administrator's Duties.** Any duties assigned to the Zoning Administrator under this section may be performed by the Township Engineer or by any other qualified township personnel or officer so designated by the Zoning Administrator or Township Board.

SECTION 4.27A. MINOR MINERAL REMOVAL ACTIVITIES.

Mineral removal or extraction of mineral materials (as defined in Section 4.27 of this Ordinance) in quantities less than 5,000 cubic yards, or the reshaping, enlarging, straightening, damming or diminution of lakes, waterways, ponds or other bodies of water, is permitted only upon special land use approval granted by the Township Board pursuant to Chapter 21, and with the intent and in such manner as to prepare or render the premises suitable for the primary intended uses of the district in which the premises is located or as envisioned in the Township Master Plan. **(Amended by Ord. No. 81-2010.)**

The removal or extraction of mineral materials in amounts of 5,000 cubic yards or more shall be permitted only in accordance with Section 4.27 of this Ordinance. Mineral extraction activities and other operations covered by the terms of this section shall be permitted only upon compliance with the following provisions:

A. **Procedure for Permit.** The owner of any parcel of land or body of water who desires to proceed with mineral removal activities as regulated by this section shall apply to the

Planning Commission for a special land use permit. Said application shall include the following information and fees:

1. The application fee required under the terms of the applicable Township Board resolution.
2. A site plan for the parcel where mineral removal activities will occur, depicting all buildings, streets, drainage facilities and natural features within 200 feet thereof, and otherwise complying with Section 16A.03 of this Ordinance.
3. A written statement describing the equipment to be used and the processes involved, estimating the time such removal will require, describing the proposed use of the premises after such removal, and an agreement to conform to the provisions of this section.

B. Required Conditions. The following conditions shall be complied with:

1. Final grades shall be harmonious with surrounding grades and shall not be in excess of 5 percent unless demonstrably necessary for the future intended use of the land. No topsoil shall be removed from the property unless demonstrably necessary for the proper intended use of the property. All remaining topsoil shall be redistributed properly upon termination of the special land use permit. Except as otherwise provided in this subsection, no final grades shall be such as to create any area which will fill with water after the removal operation.
2. A cash bond satisfactory to the Township Board, or at its discretion, a surety bond or letter of credit, may be required to be posted with the Township to insure that the final grades of the plan will be met by the expiration date of the permit. If the applicant proposes to create a pond or lake, the Township Board may nonetheless require the applicant to post a cash bond, surety bond or letter of credit in an amount sufficient to restore the area of the lake or pond to its original grade. **(Amended by Ord. No. 81-2010.)**
3. No mechanical processing of mineral resources shall be permitted where such operation would be detrimental to an adjacent use of land. Storm water runoff shall be directed to existing drainage systems in a manner approved by the Township and the County Drain Commissioner.
4. The creation or enlargement of a lake or pond may be permitted, but the Township Board in its discretion may require that the applicant demonstrate from engineering and geological studies that the waters of the lake or pond will not become polluted or stagnant; further, the Township Board may require that the applicant submit a plan for future use of the shore of the lake or pond, and demonstrate that the lake or pond has been approved by the MDEQ and the Ottawa County Drain Commissioner. Special land use approval pursuant to Section 4.26 of this Ordinance, in addition to approval under this section, shall be required. **(Amended by Ord. No. 81-2010.)**

5. The alteration, straightening, damming, widening or diminution of a waterway or body of water shall be approved by the MDEQ and the Drain Commissioner.
6. No removal, storage area, structure, access drive, or loading area shall be closer than 150 feet to a principal structure on adjoining property. All unpaved areas and roadways shall be regularly maintained and kept in a dust free condition.
7. Truck routing shall be only on streets approved by the County Road Commission under such conditions and securities as may be imposed by the Township or the County to protect or repair the roads and to insure the safety of the public.
8. All structures and stored material equipment shall be removed from the property within six months of the discontinuance of the mineral extraction activities. All land shall be graded to final elevations and reseeded so as to avoid erosion following the expiration of activities.
9. To the extent required by the Planning Commission or Township Board, areas of steep grades or other areas of hazard shall be enclosed by a suitable fence at least four feet high so as to prevent or inhibit persons who may enter the removal area from being in parts of the removal area where there may be hazards. **(Amended by Ord. No. 81-2010.)**
10. Permits issued under this section shall be effective for not more than one year; provided, however, that a permit may be renewed for a period of not more than six months, but such renewal shall occur only if the applicant demonstrates to the satisfaction of the Township Board that extraordinary circumstances have occurred, beyond the control of the applicant, which justify the approval of a renewal. **(Amended by Ord. No. 81-2010.)**

C. Determination by Township Board.

1. The Planning Commission and Township Board shall examine the proposed plans in relation to the Township Master Plan, the effects of such use or change upon the area involved, the effects of proposed ultimate uses on planned and future streets, lots, grades and waterways proposed. **(Amended by Ord. No. 81-2010.)**
2. Following Planning Commission public hearing and recommendation, as required by Chapter 21 of this Ordinance, the Township Board shall either approve, approve with conditions, or deny the application. The Township Board shall not approve or conditionally approve an application unless the applicant demonstrates that the mineral removal activities will: **(Amended by Ord. No. 81-2010.)**
 - a. Prepare the premises for a permitted primary intended use for the district in a reasonable period of time.
 - b. Not adversely affect permitted uses in the district.
 - c. Conform to all provisions of this section.

- d. Not create any condition which will adversely affect the public health, safety or general welfare.
- e. Not create any very serious adverse consequences or serious environmental impact on adjacent or nearby lands or other lands elsewhere in the Township or the area.
 - i. The Planning Commission and Township Board, in considering whether any such very serious adverse consequences or serious environmental impact would result from the proposed removal operations and activities, shall determine the degree and extent of public interest in the removal of the minerals from the applicant's land, considering the type of resource involved, the market demand and availability of supply, and other relevant factors and conditions which determine the relative benefit to the public from the proposed removal operations and activities. **(Amended by Ord. No. 81-2010.)**
 - ii. The Township Board shall issue a permit only if the proposed removal operations and activities do not, considering the nature and extent of public benefit from the resource removal, result in very serious adverse consequences or serious environmental impact. Safety concerns and additional noise occasioned by the proposed operations, including additional truck traffic; decreased air quality caused by dust and odors from the operations and truck traffic; diminution of nearby property values; decrease in residential or other development in the area; loss of property tax revenues and other relevant factors may be considered in determining whether very serious adverse consequences or serious environmental impact would result from the removal operations and activities. **(Amended by Ord. No. 81-2010.)**

D. **Exceptions.** The provisions of this section shall not apply to the following:

1. Where the mineral extraction activities are more than 500 feet from any street or property line, occupy not more than two acres in area, do not constitute a weekly average intensity of use of more than five yards of material per day, and create no area which fills with water other than a watering pond for farms.
2. Where only mineral processing, storage or refining takes place in the I-1 Industrial District.
3. The ordinary and necessary grading of land for the tilling and cultivation of soils for the growing of crops.
4. The ordinary and necessary grading or excavation for construction of buildings or structures or related septic systems on a lot under a permit issued by the Township.
5. Excavation within a public right-of-way, drainage easements or utility easements.

6. The control and regulation of oil or gas wells.

E. **Existing Permits.** Upon the effective date of this section, existing special land use permits which have been previously issued under this Ordinance shall continue in effect until, but not after, the authorized amount of mineral material has been removed and any required site rehabilitation completed. In the case of such special land use permits which do not designate the amount of mineral material which may be removed, such permits shall continue in effect for the remainder of the period of time for which they were issued or last renewed. Mineral removal activities and operations shall not thereafter be conducted on the lands covered by the special land use permit unless a new special land use permit has been obtained pursuant to the procedures set forth in this section.

SECTION 4.28 HOME BASED BUSINESSES. (Section 4.28 amended in its entirety by Ord. No. 83-11.)

A home based business may be permitted in the AG-1, AG-PUD, R-1, R-2 and R-5 Districts in accordance with this section.

A. **Permitted Home Based Businesses.** The following home based businesses are permitted by right, without prior issuance of a permit under subsection F, provided that the business is not operated, in whole or in part, out of a detached accessory building:

1. Dressmaking, sewing and tailoring.
2. Painting, sculpturing and writing.
3. Home arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, woodworking, lapidary work and jewelry making.
4. Office of a sales person, sales representative or manufacturer's representative.
5. Musical instrument instruction, except that no instrument may be electronically amplified so as to be audible beyond the parcel of land where the use occurs.
6. Drafting and illustration services.
7. Architecture and interior design work.
8. Bookkeeping, accounting and financial planning.
9. Storage and distribution of direct sale products, such as home cleaning products, cosmetics, food containers and the like.
10. Consulting and counseling services.
11. Private tutoring.
12. Telephone solicitation work and telephone answering service.

13. Computer programming and other computer related work.
14. Secretarial services
15. Office of minister, priest or other member of the clergy.
16. Watch repair.
17. Beauty salons and barber shops licensed by the State of Michigan with only one beauty or barber chair allowed.
18. Furniture upholstery.
19. Television and other small household appliance repair.
20. Office of building contractor or building trades persons.
21. Travel booking service.
22. Gun repair service.
23. Photography studio.
24. Lawn care service.
25. Garage and yard sales, but no more than 12 days total (whether or not consecutively) in any 12-month period.
26. Taxidermy.

B. Home Based Businesses Authorized by Permit. The following home based businesses may be conducted only upon prior issuance of a home based business permit by the Zoning Administrator, in accordance with subsection F:

1. Cabinet making and carpentry work.
2. Machine shop.
3. Bed and breakfast establishments, in the home only, not in an accessory building.
4. Small engine repair.
5. Sandblasting.
6. Automobile repair.
7. Blacksmithing and welding.
8. Antique shops.

9. The cultivation and dispensation of marijuana for medical use, subject to the regulations of Section 4.36 of this Ordinance. **(Added by Ord. No. 84-11.)**
10. Any home based business listed in subsection A that is operated, in whole or in part, out of a detached accessory building.

C. Non-Listed, But Similar, Home Based Businesses.

1. In addition to the above listed permitted home based businesses, other non-listed home based businesses may also be permitted if they are similar in nature and effect to those specifically listed in this section. Applications for non-listed businesses shall be submitted to the Planning Commission for review and decision.
2. In determining whether a proposed home business is sufficiently similar to one listed in this section, the Planning Commission shall consider and make findings upon the following standards:
 - a. Whether the business is incidental and secondary to the use of the premises as a dwelling.
 - b. Whether the nature of the home based business is substantially in keeping with the residential use of the property.
 - c. Whether the likely effects of the home based business upon adjacent and nearby lands would be within the scope of the effects likely to result from other, similar home based business that are specifically permitted in this section.
 - d. Whether the home based business will have appreciable adverse effects upon adjacent and nearby lands and the uses thereof.

D. Prohibited Home Based Businesses. Certain uses, by the nature of their operation, have a pronounced tendency to increase in intensity beyond the limits permitted for home based businesses, thereby impairing the reasonable use and value of surrounding residential properties. Therefore, the following uses shall not be permitted as home businesses:

1. Hospitals and medical clinics.
2. Nursing homes
3. Mortuaries/funeral homes.
4. Restaurants or tea rooms.
5. Private clubs.
6. Veterinary clinics.

E. Minimum Conditions for All Home Based Businesses.

1. The following minimum conditions shall apply to all home based businesses authorized under this Section 4.28, whether or not the home based business requires a permit under subsection F:
 - a. No home business shall occupy more than 20 percent of the usable floor area of the residence.
 - b. The home based business may be operated out of an accessory building, with the exception of a bed and breakfast. An accessory building used for a home based business shall comply with the requirements of Section 4.11 of this Ordinance.
 - c. For purposes of identification, one non-illuminated sign not exceeding four square feet in area shall be permitted on the same premises as the home based business. No other sign shall be utilized in connection with the home business. The one permitted sign shall comply with all applicable requirements of Section 4.16.
 - d. No motors other than electrically operated motors shall be used in conjunction with the home based business. All electrical motors and equipment used shall be shielded and shall not cause radio, television noise or electrical interferences for adjoining properties.
 - e. The use of a home building for a home based business shall not alter the residential character of the property.
 - f. No merchandise or articles for sale shall be displayed outside of the home or accessory building.
 - g. No article or material used in connection with the business shall be stored outdoors.
 - h. No combustible, toxic or hazardous material may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and local requirements concerning the use, handling, storage transport and disposal of any such materials.
 - i. The home based business may increase vehicular traffic flow and parking by no more than two additional vehicles at a time. Parking shall be accommodated by areas off the street right-of-way.
 - j. A home based business may not be open to the public or receive deliveries earlier than 7:00 a.m. or later than 8:00 p.m.

- k. A home based business shall be carried on by one or more members of a family residing on the premises, plus not more than one additional non-resident employee.
 - l. A home based business shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated on or from other lands in the zoning district.
 - m. All dwellings and improvements used in connection with home-based businesses must comply with the requirements of the Michigan Occupational Safety and Health Act, MCL 408.1001 *et seq.*, as amended from time to time, and the rules and regulations promulgated under the Occupational Safety and Health Act.
 - n. All home based businesses shall comply with all pertinent local, state and federal licensing requirements, and shall obtain all required building, mechanical, plumbing and electrical permits, as applicable.
2. The Planning Commission shall have the authority to modify the requirements of this subsection E with respect to any home occupation or home based business that was in existence as of April 1, 2011, but which did not, up to and prior to that time, comply with the requirements of this subsection E. A home occupation or home based business seeking such a modification shall submit an application to the Planning Commission for review and decision. In considering whether to grant a modification, the Planning Commission shall consider the following factors:
- a. The extent, nature and scope of the modification being sought.
 - b. Whether the historical operation of the home occupation or home based business has had appreciable adverse effects upon adjacent and nearby lands and the uses thereof.
 - c. The length of time the home occupation or home based business has been in existence.
 - d. The investment the owner has made in the home occupation or home based business.
 - e. Whether the home occupation or home based business provides a substantial benefit to the social or economic well-being of the Township.
 - f. Whether the home occupation or home based business has the effect of promoting or preserving the use of land for agricultural production.
 - g. Whether the requested modification would interfere with the safe and orderly development of Township lands in accordance with other applicable provisions of this Ordinance and with the Master Plan.

3. The following provisions shall apply to a home occupation or home based business seeking a modification under subsection E.2:
 - a. The Planning Commission may approve the requested modification, approve it only to a limited extent, or deny all or any part of the requested modification.
 - b. A home occupation or home based business for which a modification has been sought shall bring its operations into full compliance with the Planning Commission's decision within 90 days following the Planning Commission's final decision.

F. **Home Based Business Permit.** A home based business listed in subsection B, or which is allowed pursuant to subsection C, shall not be conducted without the prior issuance of a home based business permit, in accordance with this subsection. Permits for the home based businesses listed in subsection B may be issued by the Zoning Administrator. Permits for non-listed home based businesses allowed under subsection C may also be issued by the Zoning Administrator, but only following Planning Commission approval of the home based business under subsection C. Permits and applications for permits are subject to the following procedures and requirements:

1. A person shall apply for a home based business permit on a form provided by the Township Clerk or Zoning Administrator, and shall pay the required application fee. The application and fee shall be submitted to the Zoning Administrator.
2. The application shall include a site plan, drawings or other additional information showing the location of buildings, driveways, parking areas and other features of the home based business and the buildings and land devoted thereto. Submittal of an application shall constitute the applicant's consent to allow the Zoning Administrator to inspect the premises of the proposed home based business, during normal business hours, to verify whether the home based business will comply with this section.
3. A home based business permit may be issued for a proposed home based business if the business complies with the requirements of this section, based upon the information provided in the application. No public hearing shall be required. Once the application is complete, the Zoning Administrator or Planning Commission (as appropriate) shall issue, or shall decline to issue, the permit within a reasonable time. If the Zoning Administrator or Planning Commission declines to issue the permit, the reasons therefore shall be stated in writing.
4. A home based business permit shall remain in effect for a period of three years, so long as the terms of the permit and of this section are complied with and so long as the permit is not revoked. The permit may be revoked by the Township for non-compliance, by the issuance of a stop work order and an order revoking the permit, issued by the Zoning Administrator or other Township representative having responsibility for enforcement of Township ordinances.

5. A home based business permit may be renewed for unlimited successive periods of three years each, upon written application to the Zoning Administrator with a statement certifying that the home based business will continue to operate in compliance with this section and all conditions of the existing permit. Applications for renewal shall be submitted at least 30 days prior to expiration of the existing permit. Submittal of a renewal application shall constitute the permittee's consent to allow the Zoning Administrator to inspect the home based business, during normal business hours, to verify compliance with this section.
6. Upon the cessation of a home based business for a period of 90 days, the home based business permit shall be of no further effect.
7. A home based business shall at all times comply with the minimum requirements of this section and all other applicable requirements. The un-permitted or unlawful expansion or enlargement of a home based business, or its departure from any required conditions or limitations, shall be grounds for the revoking of the home based business permit. Upon the revoking of the permit, the applicant shall no longer engage in the home based business.
8. A home based business that was also allowed under the former "Home Occupations" section of this Ordinance, and which was lawfully in existence at the time of adoption of this section, may continue in the same manner and to the same extent as was the case at the time of adoption of this section. A person operating such a home based business, if listed in subsection B, is nevertheless required to apply for a home based business permit within 90 days following the effective date of the home based business provisions of this section.
9. A home occupation or home based business that was in unlawful existence prior to the effective date of these home based business provisions shall continue to be considered unlawful until it complies with all applicable requirements of this Ordinance. Pre-existing home occupations or home based businesses that are not brought into compliance with all applicable requirements of this Ordinance shall continue to be unlawful and shall be subject to Township enforcement action.

G. **Enforcement.** Nothing in this section shall be construed as preventing the Township from enforcing the applicable provisions of this Ordinance against a home based business, using any means authorized by law, including, without limitation, by the issuance of a stop work order or citation, or by the commencement of legal proceedings for injunctive relief, whether or not the home based business is subject to the permitting requirements of subsection F.

SECTION 4.29 RESERVED.

SECTION 4.30 MINIMUM STANDARDS FOR ALL DWELLINGS.

All dwelling units located outside of a mobile home park shall comply with the following minimum requirements:

- A. All dwelling units shall provide a minimum height between the interior floor and ceiling of seven and one-half feet or, if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the State Construction Code.
- B. The minimum width of any single family dwelling unit shall be 20 feet for at least three-quarters of its length.
- C. All dwellings without basements shall provide a crawl space below the entire floor of the dwelling four feet in depth, with a vapor barrier consisting of two inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. **(Amended by Ord. No. 81-2010.)**
- D. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the Township or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled “Mobile Home Construction & Safety Standards.” The foundation shall conceal the chassis, under carriage and towing mechanism.
- E. The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
- F. All dwellings shall be connected to a sewer system and water supply system approved by the Township and the County Health Department.
- G. All dwellings shall provide steps or porch areas, permanently attached to the foundation where there exists an elevation differential of more than eight inches between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- H. All additions to dwellings shall meet all the requirements of this Ordinance.
- I. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides or alternatively with window sills or roof drainage systems, concentrating roof drainage at collection points along sides of the dwellings. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

- J. Prior to issuance of a building permit for any dwelling unit, construction plans, including a site plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- K. A minimum of 120 square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage or separate accessory building whose construction is of equal or better construction quality to that of the dwelling and which is otherwise in compliance with the applicable provisions of this Ordinance.
- L. The dwelling shall be constructed with materials of consistent quality. Hybrid construction involving the combination of on-site constructed buildings with off-site constructed buildings, or the combination of two or more off-site constructed dwellings, is prohibited.
- M. Exterior finish materials used for mobile homes shall be of equal or better quality than exterior finish materials that may be approved for site-built housing, and shall be installed so as to maintain a comparable appearance with site-built housing. No dwelling may have exterior finish materials that would cause reflection greater than that from siding coated with clean, white, gloss exterior enamel.
- N. The dwelling shall be so located on the lot on which it is placed or constructed so that the length nearest the principal street frontage is at least 34 feet in total dimension parallel to the street.
- O. A dwelling shall not use peculiar window design, odd ornamentation or colors or color combinations that would be incompatible with other residential dwellings located outside of mobile home parks within the Township.

SECTION 4.31 ADULT FOSTER CARE HOMES.

No adult foster care home shall in any event be located within 1,500 foot radius of any other adult foster care home.

SECTION 4.32 ZONE DISTRICTS.

Whereas excessive sound is a serious hazard to the public health and welfare, safety, and the quality of life; and, Whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, Whereas the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; and Now, therefore, it is the policy of the Township of Polkton to prevent excessive sound which may jeopardize the health and welfare or safety of the citizens or degrade the quality of life. This section shall apply to the control of all sound originating within the limits of the Township of Polkton.

A. **Maximum Permissible Sound Levels.**

1. No person shall conduct or permit any activity that produces a dBA level beyond the property line exceeding the sound pressure levels specified in Table I. Where property is included in both residential and commercial areas, the residential sound levels shall be used for measurements made only on the portion of the property used solely for residential purposes.

TABLE I		
AREA OF PROPERTY RECEIVING THE SOUND	7 a.m. to 9 p.m.	9 p.m. to 7 a.m.
Residential or Agricultural Area	65	55
Commercial Area	75	75
Industrial Area	70	70
(All limits expressed in dBA).		

For the purpose of administering and applying this Section 4.32.A.1, “property line” shall mean (except as provided below) the imaginary line which represents the legal limits of property (including an apartment, condominium, dwelling unit, or public property) owned, leased, or otherwise occupied by a person, including the legal limits of public property on which a person is present. In cases involving sound or disturbance from an activity on a public right-of-way, the property line shall be the nearest boundary of the public right-of-way. In cases involving sound or disturbance that impacts a dwelling on a parcel or lot in an agricultural area, the property line shall be an imaginary line that extends 60 feet in all directions from the dwelling receiving the sound or disturbance, or the actual property line, whichever is closest to the dwelling receiving the sound.

2. **Exceptions.** The maximum permissible sound levels of Table I shall not apply to the following:

- a. Domestic power tools and lawn mowers when operated with a muffler between the hours of 8 a.m. to 8 p.m. on weekdays and 9 a.m. to 8 p.m. on weekends and holidays.
- b. Noise from church bells and church chimes.
- c. Noise from construction activity.
- d. Noise created by lawful farm operations that are performed in accordance with the Right to Farm Act, MCL 286.471, *et seq.*, and the generally accepted agricultural and management practices (“GAAMPs”) promulgated thereunder

by the Michigan Commission of Agriculture. (Section 4.32.A amended by Ord. No. 96-14.)

B. Motor Vehicle Maximum Sound Levels.

1. **Motor Vehicles and Motorcycles on Public Rights-of-Way.** No person shall operate, or cause to be operated, a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the levels set forth in Table II.

Table II – Motor Vehicle and Motorcycle Sound Limits
(measured at 50 feet or 15 meters)

Vehicle Class	Speed Limit 35 MPH or less	Sound Level in dBA	
		Speed Limit over 35 run-up MPH	Stationary
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 lbs. or more	86	90	80
All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	86	90	--
Any motorcycle	82	86	--
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	86	--

2. **Adequate Mufflers or Sound Dissipative Devices.**
 - a. No person shall operate, or cause to be operated, any motor vehicle or motorcycle not equipped with original muffler or equivalent replacement in good working order and in constant operation.
 - b. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

3. **Motor Vehicle Horns and Signaling Devices.**

The following acts and the causing thereof are declared to be in violation of this Ordinance:

- a. The sounding of any horn or other auditory signaling device or in any motor vehicle or motorcycle on any public right-of-way or public space, except as a warning of danger.

- b. The sounding of any horn or other auditory signaling device which produces a sound level in excess of 100 dBA at 25 feet.

4. **Standing Motor Vehicles.**

No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than three minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within 150 feet (46 meters) of a residential area or designated noise sensitive zone, between the hours of 8 p.m. and 8 a.m. the following day.

5. **Recreational Motorized Vehicles Operating Off Public Rights-of-Way.**

- a. Except as permitted in subsection (b) no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds the limits set forth in Table III at a distance of 50 feet (15 meters) or more from the path of the vehicle when operated on private property. This section shall apply to all recreational motorized vehicles whether or not duly licensed and registered.
- b. Permits for motor vehicle racing events may be obtained from the Zoning Administrator. **(Amended by Ord. No. 81-2010.)**

Table III – Recreational Motorized Vehicle Sound Limits (measured at 50 feet or 15 meters)		
Vehicle Type		Sound Level, Dba
Motorcycle	Unit mfg. before 1975	86 dB
	Unit mfg. after 1975	84 dBA
Any other vehicle	Unit mfg. before 1975	84 dBA
	Unit mfg. after 1975	80 dBA

- c. **Railroad Operational Noise Limits.** No person shall operate, or permit to be operated, any railroad locomotive, cars, any other rolling stock, or equipment, so as to cause a violation of the allowable sound levels adopted by the U.S. Environmental Protection Agency.

d. **Prohibited Acts.**

1) No person shall make, or continue or cause or permit to be made verbally or mechanically, any unnecessary noise (noise disturbance). Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section.

2) The following acts, and the causing thereof, are declared to be in violation of this Ordinance:

- a) **Sound Reproduction Systems.** Operating, playing, or permitting the operation or playing of any radio, television, phonograph, or similar device which reproduces or amplifies sound:
 - (1) In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when orated in or on a motor vehicle on a public right- of-way or public space.
 - (2) In such a manner as to be available to every person other than the operator of the device.
- b) **Loudspeakers/Public Address Systems.**
 - (1) Using or operating for any non-commercial purpose of any loudspeaker, public address system, or similar device between the hours of 10 p.m. and 8 a.m. the following day, such that the sound there from creates a noise disturbance across a residential real property boundary.
 - (2) Using or operating for any commercial purpose of any loudspeaker, public address system or similar device.
- c) **Street Sales.** Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the Township.
- d) **Animals and Birds.** Owning, possessing, or harboring any animal or bird which frequently, or for continued duration, makes sounds which create a noise disturbance across a residential real property boundary.
- e) **Loading and Unloading.** Loading, unloading, opening, dosing, or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 10 p.m. and 7 a.m. the following day in such a manner as to cause a noise disturbance across a residential property boundary or within a noise sensitive zone pursuant to (A) Maximum Permissible Sound Levels of this Ordinance.
- f) **Motor Vehicle Repairs and Testing.** Repairing, rebuilding, modifying, or testing any motor vehicle, or motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary.

- g) **Airport, Aircraft Operations and Heliports.**
- (1) The Zoning Administrator shall consult with the airport proprietor to recommend changes in airport operations to minimize any noise disturbance which the airport owner may have the authority to control in its capacity as proprietor. **(Amended by Ord. No. 81-2010.)**
 - (2) Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin, or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations.
- h) **Construction.** Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:
- (1) Between the hours of 6 p.m. and 7 a.m. the following day on weekdays or at any time on weekends or holidays, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued.
- i) **Places of Public Entertainment.** Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment as to produce a maximum sound level of 50 dBA on a residential real property boundary pursuant to (A) Maximum Permissible Sound Levels of this Ordinance.
- j) **Stationary Non-Emergency Signaling Devices.** Control of noise from stationary non-emergency signaling devices shall be in accordance with the provisions of N.J.A.C. 7:29 - 1.1 through 1.5 and all amendments and supplements thereto, which provisions are incorporated herein by reference.
- k) **Emergency Signaling Devices.** Control of noise from emergency signaling devices shall be in accordance with the provisions of N.J.A.C. 7:29 - 1.1 through 1.5 and all amendments and supplements thereto, which provisions are incorporated herein by reference.

- l) **Domestic Power Tools.** Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors in residential areas between the hours of 8 p.m. and 8 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- m) Sounding or permitting the sounding of any exterior burglar alarm on any building or motor vehicle unless such burglar alarm shall terminate its operation within 15 minutes of its being activated. Any vehicle upon which a burglar alarm has been installed shall prominently display the telephone number at which communication may be made with the owner of such motor vehicle.
- n) **Refuse Compacting Vehicles.** The operating or permitting to be operated of any motor vehicle which can compact refuse, between the hours of 6 p.m. and 6 a.m. the following day in residential areas.
- o) **Air Conditioning and Air Handling Devices.** The operation of air conditioning or air handling devices that exceeds the maximum sound level limitations provided in this section.
 - (1) In residential areas, continuous sound levels measured at the property line of 55 dBA.
 - (2) The provisions of this section shall not apply if the sound from the air conditioner or air handling device produces less than a 5 dBA increase in the sound level that exists in the absence of such sound.

SECTION 4.33 DISH ANTENNAS.

- A. Dish antennas are a permitted use in all districts. A dish antenna used by the occupants of a residential dwelling for the primary purpose of obtaining satellite television service and/or satellite internet service for family use, and which measures no more than three feet in diameter, shall comply with subsections (5) through (12), below. All other dish antennas shall comply with all provisions of this section.
 - 1. No dish antenna shall be installed or used until the Zoning Administrator shall have issued a building permit therefor. **(Amended by Ord. No. 81-2010.)**
 - 2. An applicant for such a permit shall pay the normal fee attendant to the issuance of a building permit and shall submit a sketch of the lot on which it is proposed such antenna be installed which shall show the lot lines, abutting street(s), structures on the lot and the location of the proposed antenna. The applicant shall also submit

drawings or brochures which will be sufficient to describe the foundation, support structure, and height of the proposed antenna.

3. No permit for the installation of a dish antenna shall be issued unless the Zoning Administrator is satisfied that the proposed antenna and its foundation and support structure is reasonably designed to withstand likely winds, snow load, and other stresses. **(Amended by Ord. No. 81-2010.)**
4. In the case of lots which do not abut upon a lake or river, a dish antenna may be located only in the side or rear yard. In the case of lots which abut upon a lake or river, a dish antenna may be located only in the side or front yard. Dish antenna shall be located no closer than ten feet to a side lot line or a rear lot line (in the case of lots which do not abut upon a lake or river) or a front lot line (in the case of lots which abut upon a lake or river), as applicable, provided that when a dish antenna is to be located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said dish antenna shall not project beyond the front yard set-back required for the lot to the rear of such corner lot.
5. All dish antennas shall be permanently installed by attachment to the ground or to the roof of a structure on the premises, except that antennas temporarily mounted on vehicles or by other temporary means may be installed for trial or testing purposes not to exceed a period of 30 continuous days. Antennas which are temporarily installed shall be designed to withstand wind, snow load, and other stress factors reasonably anticipated during the period permitted.
6. In any residential district, a roof-mounted dish antenna shall not exceed three feet in diameter nor four feet in total height, including its mounting structure. Said height shall be measured from the peak of the roof when said dish antenna is mounted on the peak, or perpendicularly from the surface of the roof when mounted other than on its peak.
7. Except as provided in Subparagraph 6, above, a dish antenna shall not exceed 12 feet in total height including its mounting structure and foundation.
8. No dish antenna shall cause any structure to which it is attached to exceed the overall height limitation for the district in which located, Chapter 4, Section 4.03 of this Zoning Ordinance notwithstanding.
9. The surface of the dish antenna shall not contain any advertising message or other graphic representation, provided that a manufacturer's logo normally found upon such antenna is permitted, on condition that such logo be so small as to be non-legible from any lot line of the lot on which said antenna is located.
10. No dish antenna shall be permitted to serve any structure other than the principal structure upon the lot on which it is located.
11. No more than two dish antennas may be placed on any one lot.

12. All dish antennas shall be of a color as to blend into the adjacent background.
- B. An applicant for a permit to install a dish antenna who is engaged in the manufacture or sale of such antennas is exempt from subsections 4, 5, 9, and 11, above, with regard to dish antennas proposed to be erected for purposes of testing or display on the lot on which such applicant conducts such business, provided that such lot shall not be in any residential district.
- C. **Severance Clause.** Each portion of this Ordinance shall be deemed to be severable. Should any article, section, subsection, paragraph, subparagraph, sentence, or clause hereof be declared by a Court to be unconstitutional, invalid, or be rejected by referendum or similar process, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional, invalid or rejected.

SECTION 4.34 MAXIMUM LOT DEPTH TO WIDTH RATIO.

- A. In all zoning districts, except as stated below in this section, no building or structure shall be constructed on a lot or parcel the length or depth of which exceeds four times the width of such lot or parcel of land, as measured at the front building setback line. The Township Board may, however, permit the creation and use of a lot or parcel of land having a length or depth greater than that as limited above if the same is approved by the Township Board as a special land use under Chapter 21. In considering such authorization, the Township Board shall consider, in addition to the standards of Section 21.05, whether unusual or exceptional circumstances pertain to the land, including but not limited to extraordinary topographic or other physical conditions. **(Amended by Ord. No. 81-2010.)**
- B. This section shall not apply to a lot or parcel of land which is platted or otherwise of record in the office of the Register of Deeds at the effective date of this section.

SECTION 4.35 WIND ENERGY TURBINES (WETS). (Added by Ord. No. 09-76.)

- A. **Purpose.** The purpose of this section is to establish guidelines for siting Wind Energy Turbines (WETs). The goals are as follows:
1. To promote the safe, effective, and efficient use of a WET in order to reduce the consumption of fossil fuels in producing electricity.
 2. To preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a WET.
 3. To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a WET shall be governed.
- B. **Applicability.**
1. This section applies to all SSMWETs and STMWETs proposed to be constructed after the effective date of this section.

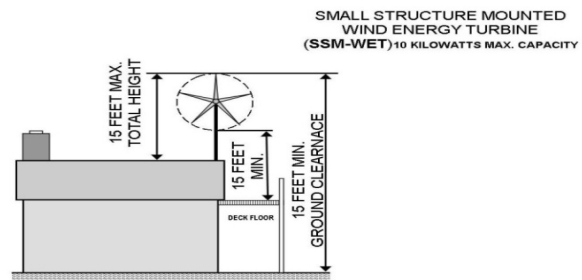
2. All SSMWETs and STMWETs constructed prior to the effective date of this section shall not be required to meet the requirements of this section; however, any physical modification to an existing SSMWET or STMWET that materially alters the size, type, equipment or location shall require a permit under this Ordinance, in compliance with the standards of this section.
3. MWETs are subject to Section 21.09 of this Ordinance.

C. **Siting and Design Standards.** All SSMWETs and STMWETs must be sited and designed in accordance with the following:

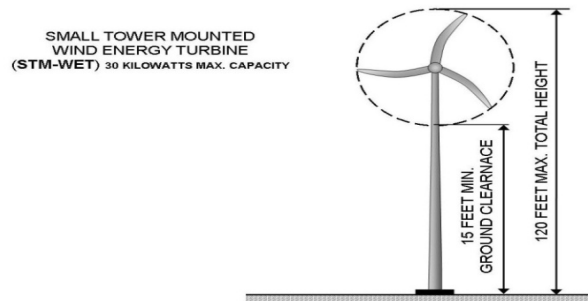
1. **Visual Appearance:**

- a. A SSMWET or STMWET, including accessory buildings and related structures shall be a solid, non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SSMWET or STMWET.
- b. A SSMWET or STMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or unless otherwise approved by the Township.
- c. A SSMWET or STMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.

2. **Ground Clearance.** The lowest extension of any blade or other exposed moving component of a SSMWET or STMWET shall be at least 15 feet above the ground (at the highest point of the natural grade within 30 feet of the base of the Tower) and, in addition, at least 15 feet above any outdoor surfaces intended for human use, such as decks, balconies or roof gardens, that are located directly below the SSMWET or STMWET.



3. **Noise.** Noise emanating from the operation of a SSMWET or STMWET shall not exceed, at any time, the maximum permissible sound levels stated in Section 4.32 of this Ordinance.



4. **Vibration.** Vibrations shall not be produced which are humanly perceptible beyond the property on which a SSMWET or STMWET is located.

5. **Guy Wires.** Guy wires shall not be permitted as part of a SSMWET or STMWET.
6. **Height.** The total height of a SSMWET shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances. The total height of a STMWET shall not exceed 120 feet.
7. **Setback.**
 - a. The setback for a SSMWET shall be a minimum of 15 feet from the lot line, public or private street, and overhead utility lines. The setback shall be measured from the furthest outward extension of all moving parts of the SSMWET.
 - b. The setback for a STMWET shall be at least 150 feet from any front lot line, and shall be setback a distance equal to or greater than the total height of the STMWET, as measured from the base of the tower, from all other lot lines, public or private streets, public easements, and overhead public utility lines.
8. **Separation.** If more than one SSMWET is installed on a lot, a distance equal to the total height of the highest SSMWET shall be maintained between the base of each SSMWET.
9. **Location.** A SSMWET shall not be affixed to the wall on the side of a structure facing a public or private street. A STMWET may only be located or maintained in a rear yard of a lot that has an occupied building; provided, however, that a STMWET may be located or maintained in a side yard or front yard of a lot that has an occupied building, if it is set back at least 150 feet from the front lot line, as measured from the base of the tower.
10. **Quantity.** There is no limit on the number of SSMWETs and/or STMWETs that may be installed on a single lot or parcel; provided, however, that each SSMWET and/or STMWET on a lot or parcel shall comply with the setback and separation requirements stated in Section 4.35.C.7 and Section 4.35.C.8.
11. **Electrical System.** All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each lot at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the WET to the tower wiring are exempt from this requirement.
12. **Anemometers.** If an anemometer is to be installed prior to, or in conjunction with a SSMWET or STMWET, it must be done so in accordance with the following provisions:
 - a. The construction, installation, or modification of an anemometer tower shall require a zoning permit and applicable building, electrical or mechanical permits and shall conform to all applicable local, state, and federal applicable

safety, construction, environmental, electrical, communications, and FAA requirements.

- b. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety, and decommissioning of this Ordinance that correspond to the size of the SSMWET or STMWET that is proposed to be constructed on the site.

D. **Zoning Permit Application.** The Zoning Administrator shall have the authority to review and approve zoning applications for the installation of a SSMWET or STMWET. Prior to the installation of a SSMWET or STMWET, an applicant shall submit a fully-completed Zoning Permit Application form to the Zoning Administrator, for review. In addition to the standard information required on a Zoning Permit Application form, applications for SSMWETs and STMWETs shall also include the following information/documentation:

1. A site plan (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s) or STMWET(s), lot lines, physical dimensions of the lot, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, public and private streets, and contours. The site plan must also include adjoining lots and the location and use of all structures on the adjoining lots.
2. The proposed number, type, and total height of SSMWET(s) or STMWET(s) to be constructed, including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
3. Documented compliance with the noise requirements set forth in Section 4.32 of this Ordinance.
4. Documented compliance with applicable Township, county, state and federal regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
5. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
6. For STMWET applications, a description of the methods that will be used to perform maintenance on the STMWET and the procedures for lowering or removing the STMWET in order to conduct maintenance.
7. Verification that the SSMWET or STMWET will not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
8. Other relevant information as may be reasonably requested by the Township.

E. **Safety Requirements.** All SSMWETs and STMWETs must be designed to meet the following safety requirements:

1. If a SSMWET or STMWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
2. The SSMWET or STMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower, rotor blades and other wind energy components, unless the manufacturer certifies that a braking system is not necessary.
3. A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWET or STMWET.
4. The structural integrity of the SSMWET or STMWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.

F. **Decommissioning.** Decommissioning of a SSMWET or STMWET shall be done in accordance with the following requirements:

1. The WET owner(s) or operator(s) shall complete decommissioning within six months after the end of the useful life. Upon request of the WET owner(s) or WET operator(s) of the SSMWET or STMWET, and for a good cause, the Township building official, or his/her designee, may grant a reasonable extension of time. The SSMWET or STMWET will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of six months. All decommissioning expenses are the responsibility of the WET owner(s) and operator(s).
2. If the WET owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the Township Board may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the lot. If the SSMWET or STMWET is not owned by the lot owner(s), a bond, security deposit or letter of credit must be provided to the Township for the cost of decommissioning each SSMWET or STMWET.
3. In addition to the decommissioning requirements listed previously, a STMWET shall also be subject to the following:
 - a. Decommissioning shall include the removal of each STMWET, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade.

- b. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the STMWET owner(s) or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

SECTION 4.36 MEDICAL USE OF MARIJUANA. (Section 4.36 added by Ord. No. 84-11.)

A. A registered primary caregiver, operating in compliance with the General Rules, the MMMA and the requirements of this section, shall be allowed as a home based business, as regulated in Section 4.28 of this Ordinance. Nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution for growing, selling, consuming, using, distributing, or possessing marihuana not in strict compliance with the MMMA and the General Rules. Also, since federal law is not affected by the MMMA or the General Rules, nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution under federal law. The MMMA does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act or any other applicable federal legislation. The following requirements for a registered primary caregiver shall apply:

1. The medical use of marihuana shall comply at all times and in all circumstances with the MMMA and the General Rules, as they may be amended from time to time.
2. A registered primary caregiver must be located outside of a 1,000-foot radius from any school, including any family day care home, to insure community compliance with federal “Drug-Free School Zone” requirements.
3. Not more than one registered primary caregiver may cultivate or manufacture marijuana at a home based business engaged in the medical use of marijuana.
4. A registered primary caregiver shall not dispense, sell, deliver or transfer marijuana to a qualifying patient on the same premises as a home based business that is engaged in the cultivation and/or manufacture of marijuana.
5. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the home in which electrical wiring, lighting or watering devices that support the cultivation, growing, or harvesting of marihuana are located.
6. If a room with windows is utilized as a growing location for marihuana, any lighting between the hours of 11:00 p.m. to 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the home, to prevent ambient light spillage that may create a distraction for adjacent properties.
7. That portion of a home where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the fire department to insure compliance with applicable standards.

- 8. The property and home shall be open for inspection upon request by the Zoning Administrator, the fire department and law enforcement officials for compliance with all applicable laws and rules during the stated hours of operation/use and at such other times as anyone is present on the home-occupied premises.
- B. A qualifying patient's use of his or her home for the cultivation of medical marijuana for solely personal use shall not require a home based business permit, but such use shall otherwise comply with all requirements of the MMMA and the General Rules, and also with Sections 4.36.A.5-8 of this Ordinance.
- C. The medical use of marijuana shall not be permitted in the Township, except as specifically allowed by this section.

SECTION 4.37 MARIHUANA ESTABLISHMENTS PROHIBITED. (Section 4.37 added by Ord. No. 104-19)

- A. The following uses are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance:
 - 1. Any and all types of a "marihuana establishment," as that term is defined and used in Michigan Initiated Law 1 of 2018, including the following:
 - a. Marihuana grower.
 - b. Marihuana safety compliance facility.
 - c. Marihuana processor.
 - d. Marihuana microbusiness.
 - e. Marihuana retailer.
 - f. Marihuana secure transporter.
 - 2. Any other type of marihuana-related business that is subject to licensing by the state department of licensing and regulatory affairs ("LARA") under Michigan Initiated Law 1 of 2018 or the rules promulgated thereunder.
- B. This Section 4.37 does not limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq., or as reflected in Section 4.36 of this Ordinance.
- C. This Section 4.37 does not restrict or prohibit the transportation of marihuana through the Township (1) by a marihuana secure transporter who is licensed to operate in another municipality, or (2) by means otherwise authorized by state law.

**CHAPTER 5
MAPPED DISTRICT**

SECTION 5.01 ZONE DISTRICTS. (Section 5.01 amended in its entirety by Ord. No. 95-13; amended by Ord. No. 99-15, eff. June 28, 2015.)

The Township of Polkton is hereby divided into the following zoning districts:

- A. AG-1 Agricultural Preservation District
- B. R-1 Low Density Single Family Residential District
- C. R-2 Waterfront Residence District
- D. Flood Zone Overlay District
- E. R-5 Medium Density Residential District
- F. R-6 Medium to High Density Residential District
- G. PUD Planned Unit Development District
- H. C-1 Neighborhood Commercial District
- I. C-2 General Commercial District
- J. I-1 Industrial District

SECTION 5.02 ZONING MAP.

The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Zoning Map of Polkton Township, Ottawa County, Michigan," which accompanies and is hereby made a part of this Ordinance. When uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules of construction and interpretation shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.
- D. Boundaries indicated as approximately following shorelines or stream beds shall be construed as following such shorelines or stream beds, and in the event of change in the location of shorelines or stream beds, shall be construed as moving with the shoreline or stream bed.

- E. Lines parallel to streets without indication of the depth from the street line shall be construed as having a depth of 200 feet from the front lot line.
- F. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereof.

SECTION 5.03 AREAS NOT INCLUDED WITHIN A DISTRICT.

In every case where land has not been included within a district on the Zoning Map, such land shall be in the AG-1 Zoning District. **(Amended by Ord. No. 99-15, eff. June 28, 2015.)**

CHAPTER 6
AG-1 AGRICULTURAL PRESERVATION DISTRICT

SECTION 6.01 DESCRIPTION AND PURPOSE.

- A. The AG-1 District has been established to conserve farmland and to encourage farming, thereby helping to assure that productive agriculture will continue to be a significant, long-term land use within the Township.
- B. The district is also established to preserve natural features and the rural landscape, while permitting specially-approved low density single family dwellings, where such dwellings are necessary for the effective operation of farms.
- C. The district is intended to permit a range of agricultural uses, to encourage the preservation of large parcels of farm land and to protect from development those lands remaining after permitted construction of single family dwellings.

SECTION 6.02 USES PERMITTED BY RIGHT. (Section 6.02 amended in its entirety by Ord. No. 85-11.)

- A. General and specialized farming of agricultural products and agricultural activities, including the raising or growing of crops, livestock, poultry, bees and other farm animals and farm products; excluding, however, intensive livestock operations.
- B. Agricultural buildings.
- C. Buildings used for the routine operations of the uses permitted in subsection A, including the storage or preservation of crops, livestock or farm products produced on the same premises; the collection, distribution or processing of crops, livestock or farm products produced on the same premises; or the incidental sale of crops, livestock or farm products raised or grown on the same premises.
- D. Private stables.
- E. Orchards, vineyards and apiaries; blueberry farms and truck gardens.
- F. Greenhouses and nurseries; tree and sod farms.
- G. Christmas tree sales; roadside market stands.
- H. Wood lot and nature preserve.
- I. The production of value-added farm products, provided that 50 percent or more of the farm products shall be produced on the same premises.
- J. Cider mills or wineries, including the selling of product in a tasting room or similar type of building or structure, provided that the products available in the tasting room are derived from crops grown primarily (i.e., 50 percent or more) on the same premises.

- K. Direct marketing and sale of produce from a farm market, provided that any permanent building used in connection with the farm market shall have a floor area not greater than 200 square feet.
- L. Seasonal “U-pick” fruit and vegetable operations.
- M. Seasonal outdoor mazes of agricultural origin, such as straw bales or corn.
- N. The following uses may be permitted as an accessory use, if conducted on the same premises as one of the principal uses listed in subsections E through H or subsections J through M, and only if (i) the accessory use utilizes not more than one accessory building having a floor area not greater than 200 square feet, (ii) the general agricultural character of the farm operation is maintained, (iii) the accessory use is clearly subordinate and incidental to the principal use, and (iv) the income from the accessory use represents less than 50 percent of the gross receipts from the farm operations:
 - 1. Activities to promote value-added agricultural products, such as educational tours or processing facility tours, or similar activities.
 - 2. Bakeries selling baked goods containing produce grown primarily on the same premises.
 - 3. Playgrounds or equipment typical of a school playground, such as slides, swings, but not including motorized vehicles or rides.
 - 4. Petting farms, animal display, and pony rides.
 - 5. Wagon, sleigh and hayrides.
 - 6. Nature trails.
 - 7. Open air or covered picnic area with restrooms.
 - 8. Agriculturally-themed educational classes, lectures, seminars.
 - 9. Historical agricultural exhibits.
 - 10. Kitchen facilities used for the processing/cooking of agricultural products for sale.
 - 11. Gift shops for the sale of agricultural products and agriculturally related products.
 - 12. Gifts shops for the sale of non-agriculturally related products, such as antiques or crafts, but such non-agriculturally related products shall not consist of more than 25 percent of the products offered for sale, as determined by percentage of total product display areas.
- O. Home based businesses, as regulated in Section 4.28. **(Added by Ord. No. 83-11.)**
- P. Dwellings in existence at the original effective date of this Section 6.02.

- Q. Reserved for future use. **(Repealed by Ord. No. 99-15, eff. June 28, 2015.)**
- R. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs). **(Added by Ord. No. 09-76.)**

SECTION 6.03 USES PERMITTED BY SPECIAL LAND USE. (Section 6.03 amended in its entirety by Ord. No. 85-11.)

- A. Single family detached farm dwellings, under the terms of Section 21.08.
- B. Direct marketing and sale of produce from a farm market, where the total sales area of the farm market or the total floor area of any building used in connection with the farm market is greater than 200 square feet.
- C. Commercial riding stables.
- D. Agricultural labor housing.
- E. Storage and processing of agricultural products produced on other premises.
- F. Medium Wind Energy Turbines (MWETs). **(Added by Ord. No. 09-76.)**
- G. Intensive livestock operations complying with generally-accepted agricultural and management practices approved by the Michigan Commission of Agriculture.
- H. Private airports and landing fields.
- I. Commercial kennels.
- J. Planned mineral removal.
- K. Commercial communications antennas and towers.
- L. Private and public schools, churches, community centers, libraries, museums, parks, playgrounds, governmental administration or service buildings and art galleries.
- M. Restaurant operations that are related to the farm products produced on the same premises, and which are clearly incidental and secondary to use of the same premises as a farm operation.
- N. The following uses may be permitted as a special land use, but only if conducted on the same premises and in conjunction with a use permitted under Section 6.02, and only if clearly incidental and subordinate to the permitted use:
 - 1. A music concert, car show or art fair, or other similar type of small-scale entertainment.
 - 2. Family oriented animated barns (such as fun houses, haunted houses, or similar entertainment) and small mechanical rides.

3. Organized meeting space for use by weddings, birthday parties or corporate picnics.
4. Designated, permanent parking for more than 20 vehicles.
5. Barn Event Venue, subject to the requirements of Section 21.10. **(Added by Ord. No. 108-20, eff. March 24, 2020.)**

SECTION 6.04 DISTRICT REGULATIONS.

Land, buildings and structures in the AG-1 District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.** One acre.
- B. **Minimum Lot Width.** The minimum lot width for a single-family dwelling constructed on or after January 1, 2015, shall be 110 feet. The minimum lot width for all other uses allowed in the AG-1 District (including single-family homes constructed prior to January 1, 2015) shall be 100 feet. **(Amended by Ord. No. 99-15, eff. June 28, 2015.)**
- C. **Minimum Required Building Setbacks.**
 1. **Front Yard.** Sixty feet
 2. **Side Yard.** For a dwelling and an attached or detached garage, there shall be two required side yards totaling a minimum of 50 feet, but no side yard shall be less than 20 feet; for any other type of building, there shall be two side yards, of at least 60 feet each.
 3. **Rear Yard.** Fifty feet.
- D. **Maximum Height of Buildings and Structures.** Thirty five feet, except permitted communications antennas and towers; provided, however, that this provision shall not apply to barns, silos and other bona fide farm buildings and farm structures.

SECTION 6.05 MINIMUM FLOOR AREA.

Each dwelling shall have minimum floor area as follows:

- A. Single family dwelling, on one floor level – 1,000 square feet of usable floor area
- B. Single family dwelling, with more than one floor level –
 - 1,100 square feet of usable floor area for a one and one-half story dwelling;
 - 1,000 square feet of usable floor area in the main and upper levels of a tri-level dwelling;
 - 1,400 square feet of usable floor area for a two-story dwelling.

CHAPTER 7
R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 7.01 DESCRIPTION AND PURPOSE.

This district is intended primarily for low density single family residential development in areas of the Township where publicly-owned sewer and water utilities are not present nor expected to be extended, and where soils are not suitable for higher density development that would rely on private septic systems.

SECTION 7.02 PERMITTED USES.

Land, buildings and structures in this district may be used for the following purposes only:

- A. Single family dwellings.
- B. Single family housing developments meeting the qualifying conditions of Section 9A.02 and approved in accordance with the requirements of Chapter 9A.
- C. Home based businesses, as regulated in Section 4.28. **(Amended by Ord. No. 83-11.)**
- D. Family day care homes with no more than six minor children.
- E. State licensed adult foster care family homes with no more than six adults, provided that such facilities are at least 1,500 feet apart, as measured between closest property lines.
- F. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs). **(Added by Ord. No. 09-76.)**

SECTION 7.03 SPECIAL LAND USES.

The following uses may be permitted by the Township Board as a special land use subject to the requirements of Chapter 21: **(Amended by Ord. No. 81-2010.)**

- A. Two-family dwellings.
- B. Private and public schools.
- C. Churches and other places of worship.
- D. Community centers, libraries, museums and art galleries.
- E. Parks and playgrounds.
- F. Governmental administrative or service buildings.

SECTION 7.04 DISTRICT REGULATIONS.

Building and structures shall not be erected or enlarged unless the following requirements are satisfied:

A. Lot Area and Width.

1. **Single Family Dwellings.** The minimum lot area and width for a single family dwelling shall be one acre and 110 feet, respectively; provided, however, that a lot or parcel of land which is platted or otherwise recorded in the records of the Ottawa County Register of Deeds as of the effective date of the amendment adding this provision may be used for one single family dwelling if such lot or parcel has a minimum area of 15,000 square feet and a minimum width of 100 feet, and provided further that a minimum side yard building setback of ten feet on each side is maintained and all other requirements of the district are met.
2. **Two-Family Dwellings.** The minimum lot area and width for a two-family dwelling shall be two acres and 150 feet, respectively.
3. **All Other Uses.** The minimum lot area and width for all other uses permitted in the R-1 District shall be three acres and 200 feet, respectively.

B. Front Yard. There shall be a minimum front yard building setback of 60 feet.

C. Side Yard. There shall be a minimum side yard building setback of 25 feet on each side.

D. Rear Yard. There shall be a minimum rear yard building setback of 50 feet.

SECTION 7.05 HEIGHT REGULATIONS.

No building or structure shall exceed 35 feet in height or two and one-half stories.

SECTION 7.06 MINIMUM FLOOR AREA.

Each dwelling unit shall have a minimum usable floor area as follows:

A. One-Story Dwelling. One thousand square feet.

B. One and One-Half Story Dwelling. One thousand one hundred square feet.

C. Tri-Level Dwelling. One thousand square feet in the main and upper level floors.

D. Two-Story Dwelling. One thousand four hundred square feet.

(Chapter 7 was amended by Ord. No. 06-67.)

CHAPTER 8
R-2 WATERFRONT RESIDENCE DISTRICT

SECTION 8.01 DESCRIPTION AND PURPOSE.

This zoning district is intended for low density single family residential uses and other seasonal residential uses along the shoreline area in the Township.

SECTION 8.02 USE REGULATIONS. Land, buildings, or structures in this zoning district may be used for the following purposes only:

- A. Single family dwellings.
- B. Parks, playgrounds, community centers, governmental, administrative, or service buildings which are owned and operated by a governmental agency or a non-commercial organization when authorized as a special land use by the Township Board pursuant to Chapter 21 of this Ordinance. In considering such authorization, the following standards shall be considered, in addition to the standards of Section 21.05: **(Amended by Ord. No. 81-2010.)**
 - 1. The necessity for such use for the surrounding neighborhood.
 - 2. The proximity of the intended use to adjoining properties, specifically including proximity to occupied dwellings.
 - 3. The size, nature, and character of the proposed use.
 - 4. Potential traffic congestion which might be occasioned by the intended use.
 - 5. Parking facilities to be provided for the proposed use.
 - 6. The effect of the proposed use on adjoining properties and the surrounding neighborhood.
- C. Single family housing developments meeting the qualifying conditions of Section 9A.02 are permitted in accordance with the requirements of Chapter 9A.
- D. Home based businesses, as regulated in Section 4.28. **(Amended by Ord. No. 83-11.)**
- E. Family day care homes with no more than six minor children.
- F. State licensed adult foster care family homes with no more than six adults, provided that such facilities are at least 1,500 feet apart, as measured between closest property lines.
- G. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs). **(Added by Ord. No. 09-76.)**

SECTION 8.03 HEIGHT REGULATIONS.

No building or structure shall exceed 35 feet in height or two and one-half stories in height.

SECTION 8.04 AREA REGULATIONS.

No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements:

- A. **Front Yard.** There shall be a front yard of not less than 40 feet.
- B. **Side Yard.** For residential buildings, no side yard shall be less than 25 feet. **(Amended by Ord. No. 81-2010.)**
- C. **Rear Yard.** There shall be a rear yard of not less than 50 feet; provided, however, that no buildings shall be located closer than 50 feet from the water's edge as determined at the highest previously recorded water level after the year 1900.
- D. **Lot Area and Width.** The minimum lot area and width for residential uses shall be 43,560 square feet and 100 feet respectively. The minimum lot area and width for all other uses shall be three acres and 200 feet respectively.

SECTION 8.05 MINIMUM FLOOR AREA.

Each dwelling unit shall have a minimum of 1,000 square feet of usable floor area, provided, however, that all single family dwellings with more than one floor level shall meet the following requirements: One thousand one hundred square feet of usable floor area for a one and one-half story dwelling, One thousand square feet of usable floor area in the main and upper floors of a tri-level dwelling, and 1,400 square feet of usable floor area for a two story dwelling.

**CHAPTER 8A
R-5 MEDIUM DENSITY RESIDENTIAL DISTRICT**

SECTION 8A.01 DESCRIPTION AND PURPOSE.

This zoning district is intended primarily for medium density single family and two-family residential development in areas of the Township where public water and/or public sewer is available or reasonably expected to be extended.

SECTION 8A.02. PERMITTED USES.

Land, buildings and structures in this district may be used for the following purposes only:

- A. Single family dwellings.
- B. Two-family dwellings, but only if served by a public water system and/or by a public or community sanitary sewer system.
- C. Single family housing developments meeting the qualifying conditions of Section 9A.02 when permitted in accordance with the requirements of Chapter 9A.
- D. Home based businesses, as regulated in Section 4.28. **(Amended by Ord. No. 83-11.)**
- E. Family day care homes with no more than six minor children.
- F. State licensed adult foster care family homes with no more than six adults, provided that such facilities are at least 1,500 feet apart, as measured between closest property lines.
- G. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs). **(Added by Ord. No. 09-76.)**

SECTION 8A.03. SPECIAL LAND USES.

The following uses may be permitted by the Township Board as a special land use subject to the requirements of Chapter 21: **(Amended by Ord. No. 81-2010.)**

- A. Private and public schools.
- B. Churches and other places of worship.
- C. Community centers, libraries, museums and art galleries.
- D. Parks and playgrounds.
- E. Governmental administrative or service buildings.

SECTION 8A.04 DISTRICT REGULATIONS FOR LOTS SERVED BY A PUBLIC WATER SYSTEM AND/OR BY A PUBLIC OR COMMUNITY SANITARY SEWER SYSTEM.

On lots served by a public water system and/or by a public or community sanitary sewer system, buildings and structures shall not be erected or enlarged unless the following requirements are satisfied:

A. Lot Area and Width.

1. **Single Family and Two-Family Dwellings.** The minimum lot area and width for a single family or two-family dwelling shall be 15,000 square feet and 100 feet, respectively.
2. **All Other Uses.** The minimum lot area and width for all other uses permitted in the R-5 District shall be three acres and 200 feet, respectively.

B. Front Yard. There shall be a minimum front yard building setback of 60 feet.

C. Side Yard. There shall be a minimum side yard building setback of ten feet on each side.

D. Rear Yard. There shall be a minimum rear yard building setback of 50 feet.

SECTION 8A.05 DISTRICT REGULATIONS FOR LOTS NOT SERVED BY A PUBLIC WATER SYSTEM OR BY A PUBLIC OR COMMUNITY SANITARY SEWER SYSTEM.

On lots not served by a public water system and not served by a public or community sanitary sewer system, buildings and structures shall not be erected or enlarged unless the following requirements are satisfied:

A. Lot Area and Width.

1. **Single Family Dwellings.** The minimum lot area and width for a single family dwelling shall be one acre and 110 feet, respectively.
2. **All Other Uses.** The minimum lot area and width for all other uses permitted in the R-5 District shall be three acres and 200 feet, respectively.

B. Front Yard. There shall be a minimum front yard building setback of 60 feet.

C. Side Yard. There shall be a minimum side yard building setback of 25 feet on each side.

D. Rear Yard. There shall be a minimum rear yard building setback of 50 feet.

SECTION 8A.06 HEIGHT REGULATIONS.

No building or structure shall exceed 35 feet in height or two and one-half stories.

SECTION 8A.07 MINIMUM FLOOR AREA.

Each dwelling unit shall have a minimum usable floor area as follows:

- A. **One-Story Dwelling.** One thousand square feet.
- B. **One and One-Half Story Dwelling.** One thousand one hundred square feet.
- C. **Tri-Level Dwelling.** One thousand square feet in the main and upper level floors.
- D. **Two-Story Dwelling.** One thousand four hundred square feet.

(Chapter 8A was amended by Ord. No. 06-67.)

CHAPTER 8B
R-6 MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT¹

SECTION 8B.01 DESCRIPTION AND PURPOSE.

This district is intended to provide for manufactured housing communities and related uses.

SECTION 8B.02 USE REGULATIONS.

Land, buildings and structures in this zoning district may be used for the following purposes only:

- A. Manufactured housing communities and accessory uses and structures such as community buildings, recreation areas, manager’s office, laundry facilities and storage sheds.
- B. Uses permitted and as regulated in the R-1 Single Family Residential District.
- C. Multi-family dwellings, but only if served by a public water system and/or by a public or community sanitary sewer system, and only when permitted by the Township Board as a special land use, subject to the requirements of Chapter 21 and Section 8B.06 of this chapter. **(Added by Ord. No. 06-67; amended by Ord. No. 81-2010.)**
- D. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs). **(Added by Ord. No. 09-76.)**

SECTION 8B.03 MANUFACTURED HOUSING COMMUNITY DESIGN REQUIREMENTS.

All manufactured housing communities shall comply with the following design requirements:

- A. **Access and Roads.**
 - 1. The community’s internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement.
 - 2. Two access points shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall be interpreted as satisfying this requirement.
 - 3. All internal roads shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of the American Association of State Highway and Transportation Officials (“AASHTO”).
 - 4. An internal road that has no exit at one end shall terminate with an adequate turning area. Parking shall not be permitted within the turning area.
 - 5. Safe-sight distance shall be provided at intersections.

¹ (Title to Chapter 8B title was changed by Ord. No. 06-67.)

6. An offset at an intersection or an intersection of more than two internal roads is prohibited.
7. All internal roads shall be two-way and shall have driving surfaces that are not less than the following widths:
 - a. Two-way, no parking 21 feet
 - b. Two-way, parallel parking, one side 31 feet
 - c. Two-way, parallel parking, two sides 41 feet
8. All entrances to communities that have 300 or more home sites shall be a minimum of 30 feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community's internal road, and shall be constructed as follows:
 - a. All turning lanes shall be a minimum of ten feet in width and 60 feet in depth, measured from the edge of the pavement of the public road into the community.
 - b. The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of 60 feet.
 - c. The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road with a curved line that has a minimum radius of 15 feet. The intersection of the public road and ingress and egress road shall not have squared comers.
9. An orderly street name system and unit numbering system shall be established by the community owner and the plan of such system approved by the Township Fire Department. Manufactured home space numbers shall be located uniformly on each space, housing unit or identification marker, throughout the community, and street names shall be adequately marked at all internal road intersections.
10. Appropriate traffic control signs shall be provided on all internal roads, and a regulation stop sign shall be installed at the point of intersection with a public road, unless a traffic control device is provided.

B. Driveways.

1. Improved hard-surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, and at delivery and collection points for fuel, refuse, and other materials.
2. The minimum width of driveways shall be ten feet. The entrance to the driveway shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.

C. Resident Vehicle Parking.

1. All home sites shall be provided with two parking spaces.
2. If vehicle parking is provided on the home site, it shall be in compliance with both of the following provisions:
 - a. The parking space shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of AASHTO.
 - b. The parking spaces may be either in tandem or side by side. If spaces are in tandem, then the width shall not be less than ten feet and the combined length shall not be less than 40 feet. If spaces are side by side, then the combined width of the two parking spaces shall not be less than 19 feet and the length shall be not less than 20 feet.
3. If the two resident vehicle parking spaces required by this section are provided off the home site, then the parking spaces shall be within 30 feet of the home site and each parking space shall have a clear parking width of ten feet and a clear length of 20 feet.
4. If parking bays are provided for resident vehicle parking, they shall contain individual spaces that have a clear parking width of ten feet and a clear length of 20 feet.

D. Visitor Parking Facilities.

1. A minimum of one parking space for every three home sites shall be provided for visitor parking.
2. Visitor parking shall be located within 500 feet of the home sites the parking is intended to serve, as measured along a road or sidewalk.
3. If parking bays are provided for visitor parking, they shall contain individual spaces that have a clear parking width of ten feet and a clear length of 20 feet.

E. Sidewalks.

1. Sidewalks shall be constructed in the community and maintained for the safe and convenient movement from all home sites to principal destinations within the community and connection to the public sidewalks outside the community. Sidewalks shall be installed along one side of all internal collector roads within the community and to the public right-of-way and to all service facilities including but not limited to central laundry, central parking, and recreation areas. Sidewalks shall also be required along that portion of a community fronting along public thoroughfares.

2. All sidewalks shall be constructed in compliance with all of the following requirements:
 - a. Sidewalks shall have a minimum width of four feet and shall be constructed in compliance with Act 8 of the Public Acts of 1973, being Section 125.1361 *et seq.* of the Michigan Compiled Laws, an act which regulates sidewalks for handicappers.
 - b. All sidewalks shall meet the standards established in Rule 928 of the Manufactured Housing Commission Rules and AASHTO standards.
3. An individual sidewalk with a minimum width of three feet shall be constructed between at least one entrance, or patio, porch, or deck if provided, and the parking spaces on the home site or parking bay, whichever is provided, or the common sidewalk.

F. Lighting.

1. Access points shall be lighted. If the public thoroughfare is lighted, then the illuminated level shall not be more than the average illumination level of the adjacent illuminated thoroughfare.
2. At all internal road intersections and designated pedestrian crosswalks, the minimum illumination shall not be less than .15-foot candle.
3. Internal roads, parking bays, and sidewalks shall be illuminated at not less than :05 foot candle.
4. If a community directory is provided, then it shall be illuminated at not less than 3.15 horizontal foot candles on any entry on the directory.
5. [Reserved.]

G. Utilities.

1. All electrical, telephone, cable television, natural gas, and other utility services shall be installed underground and specifically designed in conformance with the Manufactured Housing Commission Rules. When separate meters are installed, each meter shall be located in a uniform manner on each housing site.
2. All manufactured housing sites and all other buildings within the community shall be connected to the water system of the Township, if it is available to the community, or to another state-approved system. The community water system shall conform to Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards.
3. Fire hydrants shall be installed in all communities for which public water systems are available and shall be in compliance with the requirements and provisions of the fire

code. There shall be no more than 500 feet between hydrants as measured along adjacent roadways within the community.

4. All manufactured housing sites and all other buildings within the community shall be connected to the sanitary sewage system of the Township, if it is available to the community, or to another state-approved system. The community's sanitary sewage system shall conform to the Michigan Department of Environmental Quality manufactured housing community standards.
5. All storm sewers shall be constructed in accordance Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards. Additional requirements for a community may be established by the Ottawa County Drain Commissioner, pursuant to Section 11(3) of Public Act 96 of 1987, as amended.

H. **Site Size, Spacing and Setback Requirements.**

1. **Home Site Area.** The manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. This 5,500 square feet average may be reduced by 20 percent provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code, and Section 3-B.03.J of this chapter.
2. **Required Distances Between Homes and Other Structures.**
 - a. Home sites shall be arranged to allow for, and manufactured homes shall be located to comply with, all of the following minimum separation distances, as measured from the wall/support line or foundation line, whichever provides the greater distance:
 - i. For a home not sited parallel to an internal road, 20 feet from any part of an attached structure of an adjacent home that is used for living purposes.
 - ii. For a home sited parallel to an internal road, 15 feet from any part of an attached structure of an adjacent home that is used for living purposes if the adjacent home is sited next to the home on the same internal road or an intersecting internal road.
 - iii. Ten feet from either of the following:
 - aa. The parking space on an adjacent home site.
 - bb. An attached or detached structure or accessory of an adjacent home that is not used for living purposes.

- iv. Fifty feet from permanent community-owned structures, such as either of the following:
 - aa. Club houses.
 - bb. Maintenance and storage facilities.
- v. One hundred feet from a baseball or softball field.
- vi. Twenty five feet from the fence of a swimming pool.
- b. Attached or detached structures or accessories that are not used for living space shall be a minimum of ten feet from an adjacent home or its adjacent attached or detached structures.
- c. Any part of an accessory structure, such as steps, porches, supported or unsupported awnings, decks, carports or garages, or similar structures shall be set back the following minimum distances:
 - i. Ten feet from the edge of an internal road.
 - ii. Seven feet from a parking bay off a home site.
 - iii. Seven feet from a common sidewalk.
 - iv. Twenty five feet from a natural or man-made lake or waterway.
- d. A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two long sides and the entrance side:
 - i. Support pillars that are installed adjacent to the edge of an internal road shall be set back four feet or more from the edge of the internal road or two feet or more from the edge of a sidewalk.
 - ii. Roof overhangs shall be set back two feet or more from the edge of the internal road.
- e. Steps and their attachments shall not encroach into parking areas more than three and one-half feet.

3. Setbacks From Property Boundary Lines.

- a. Homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line of the community.
- b. If homes, permanent buildings and facilities, and other structures abut a public right-of-way, then they shall not be located closer than 50 feet from

the boundary line. If the boundary line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line.

I. Screening/Landscaping. Manufactured housing communities shall be landscaped as follows:

1. If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.
2. If the community abuts a non-residential development, it need not provide screening.
3. In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way.
4. The landscaping shall consist of evergreen trees or shrubs at least three feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured housing community as effectively as the required landscaping described above.
5. Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.

J. Open Space Requirements.

1. A community that contains 50 or more sites shall have not less than 2 percent of the community's gross acreage dedicated to designated open space, but in no case less than 25,000 square feet. At least one-half of the required open space, up to two acres, shall be dedicated to community recreation uses, such as, but not limited to, picnic areas, athletic fields, playgrounds, walking trails, shuffleboard courts and lawn game areas.
2. Required setbacks may not be used in the calculation of open space area.

K. Site Constructed Buildings and Dwellings.

1. Site constructed buildings within the community such as community buildings or laundries, but not including manufactured homes and their accessory storage buildings, shall to reviewed by the Township at the time of submission for a building permit, unless approved as part of the original plan for the community.
2. The maximum height of any community or similar building shall not exceed 25 feet, or two stories in height, whichever is less. Storage or service buildings shall not exceed 15 feet, or one story in height.

3. Community or service buildings shall not be located adjacent to an adjoining parcel that is either zoned or developed for single family residential purposes.
 4. Site-built single family dwellings may be located in a community as follows:
 - a. One single family dwelling may be permitted for the exclusive use of the community owner or manager in a community of 30 acres or less.
 - b. Two single family dwellings may be permitted for the exclusive use of the community owner, manager, or caretaker in a community in excess of 30 acres.
 - c. Any such single family dwellings permitted under this section shall comply in all respects with the requirements of single family dwellings in the R-1 Single Family Residential District.
- L. **Signs.** There shall be a maximum of one sign per road frontage with an entrance which shall bear only the name of the community. Such a sign shall be located from the street a distance equal to the setbacks established in Rule 944(2) of the Manufactured Housing Commission Rules. The sign may be lighted, provided that the source of the light is not visible and is not of the flashing or intermittent type. One sign, not exceeding 32 square feet in area shall be permitted for the first entrance provided to the community. For multiple entrances, a 16 square foot sign shall be permitted at each entrance after the first. Signs may be double-faced, but each side of the sign shall have identical copy and be flush with the other side.
- M. **RV Storage.** If boats, boat trailers and utility trailers are permitted to be parked within the manufactured housing community, adequate parking spaces for such vehicles in a central or collective parking area shall be provided. This area shall be in addition to the automobile parking requirements of this Ordinance and shall be adequately locked, fenced and permanently buffered.
- N. **Compliance with Regulations.** The design, layout, construction and use of a manufactured housing community shall in all other respects comply with the regulations on the design, construction and use of manufactured housing communities, the sale and leasing of manufactured housing lots and all other aspects of the construction and use of manufactured housing communities, as set forth in the rules of the Michigan Manufactured Housing Commission, as amended from time to time.

SECTION 8B.04 MANUFACTURED HOMES WITHIN MANUFACTURED HOUSING COMMUNITIES; OPERATION OF COMMUNITIES.

- A. **[Reserved.]**
- B. **Home Size.** Manufactured homes within a community shall not contain less than 600 square feet of living area nor have outside dimensions of less than 12 feet in width and 50 feet in length.

- C. **Installation.** The installation of manufactured housing on each site within the community shall conform within the requirements of Rule 602 and Rule 602A of the Manufactured Housing Commission Rules. All utility connections to homes within the community shall be performed in accordance with the requirements of Rule 603 of the Manufactured Housing Commission Rules.
- D. Skirting shall be installed around all manufactured housing units and meet all of the following requirement:
1. Such skirting shall be compatible aesthetically with the appearance and construction of the manufactured housing unit. All skirting shall be installed prior to the issuance of a certificate of occupancy. In the event that such installation is delayed due to weather, or for other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed 90 days. All skirting shall meet the requirements established by the rules of the Michigan Manufactured Housing Commission.
 2. Individual manufactured housing units shall be skirted around the perimeter of the manufactured housing unit to conceal the underbody from view. Skirting shall be vented in accordance with the requirements of Rule 604 of the Manufactured Housing Commission Rules. All skirting shall be manufactured of fire resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions and shall be property maintained.
- E. No personal property shall be stored outside, under any mobile home or within carports which are open on any side. Storage sheds with a maximum area of 144 square feet may be placed upon any individual mobile site.
- F. Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community.
- G. A manufactured home shall be used only as a single family dwelling.
- H. No manufactured home shall be occupied for dwelling purposes unless it is placed on a site or lot and connected to water, sanitary sewer, electrical, and other facilities as may be necessary, prior to building official inspection and approval.
- I. New or pre-owned manufactured homes, which are to remain on-site in the manufactured housing community, may be sold by the resident, owner or a licensed dealer or broker, provided that manufactured housing development management permits the sale.
- J. The owner or operator of any community shall be responsible for all street maintenance within the confines of the community and shall be responsible for all snow removal within the confines of the community and shall be responsible for picking up trash and garbage within the confines of the community.
- K. Swimming pools, if provided, shall be in compliance with Act 368 of the Public Acts of 1978, as amended, and the rules promulgated thereunder.

- L. Individual fuel oil, liquid petroleum, or other fuel tanks or personal property shall not be permitted to be stored in or under any home.
- M. Each home site shall be provided with approved garbage containers that meet the requirements of the Manufactured Housing Commission. The containers shall be kept in sanitary conditions at all times. It shall be the responsibility of the community operator to ensure that all garbage containers do not overflow and to ensure that all areas within the community are maintained free from any trash or other discarded materials.
- N. Every community shall be equipped with fire extinguishment equipment in good working order, with type, size and number so located as to be in compliance with Rule 702A of the Manufactured Housing Commission Rules. Each fire extinguisher shall be periodically examined and kept at all times in a useable condition in compliance with the regulations of the State Police Fire Marshal Division.

SECTION 8B.05 REVIEW AND APPROVAL.

- A. **Review.** Prior to the establishment of a new manufactured housing community, an expansion of a manufactured housing community, or construction of any building within the community not previously approved, a plan shall be presented to the Planning Commission for its review and approval.
- B. **Application.** All plans submitted to the Planning Commission for review under this section shall contain the following information:
 - 1. The date, north arrow and scale. The scale shall not be less than one inch equals 50 feet for property under three acres and at least one inch equals 100 feet for those three acres or more.
 - 2. All site and/or property lines are to be shown in dimension.
 - 3. The location and height of all existing and proposed structures on and within 100 feet of the subject property.
 - 4. The location and dimensions of all existing and proposed internal drives, sidewalks, curb openings, signs, exterior lighting, parking areas (showing dimensions of a typical parking space), unloading areas, community buildings, open space and recreation areas.
 - 5. The location and the pavement and right-of-way width of all abutting roads, streets, or alleys.
 - 6. The name and firm address of the professional civil engineering, registered landscape architect, landscaping firm, or architectural firms responsible for the preparation of the site plan.
 - 7. The name and address of the property owner and developer.

8. The location of all rubbish receptacles and landscaping and the location, height, and type of fences and walls.
9. [Reserved.]
10. Location of all fire hydrants, if applicable.
11. The number of manufactured housing sites proposed.
12. The submittal shall contain a narrative of the arrangements to be made for water supply and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of storm water management facilities.
13. Utility and other easements.
14. Clusters of trees and existing individual trees over 24 inches in diameter.
15. Existing wetlands.
16. [Reserved.]
17. [Reserved.]
18. Proposed sign locations.
19. All required setbacks for front, side and rear yards.

Provided, however, that detailed construction plans shall not be required to be submitted to the Township.

C. **Fee.** Fees for the review of a manufactured housing community plan shall be established by resolution of the Township Board.

D. **Decision.**

1. The plan shall be reviewed by the Planning Commission for compliance with the design standards for manufactured housing communities contained in this chapter, and the regulations of the State Manufactured Housing Commission. If it is determined that the manufactured housing community complies with the ordinance and regulations, it shall be approved.
2. The plan shall be approved, approved with conditions, or denied within 60 days after received by the Township, unless the applicant consents to allow a longer period of review.

SECTION 8B.06 OTHER USES. (Section 8B.06 was amended by Ord. No. 06-67.)

Except for manufactured housing communities permitted as stated in this chapter, all land uses in this district shall comply with the following requirements:

- A. **Single Family Dwellings.** Single family dwellings shall comply with the requirements stated in this Ordinance for the R-5 Medium Density Residential District.
- B. **Multi-Family Dwellings.** Multi-family dwellings shall comply with the following requirements, in addition to any conditions imposed by the Planning Commission pursuant to Chapter 21:
 - 1. **Minimum Lot Area.** The minimum lot area for a multi-family dwelling shall be one acre for the first three units, plus an additional 5,000 square feet for each dwelling unit in excess of three, provided that the overall net density shall not exceed eight units per acre.
 - 2. **Minimum Lot Width.** The minimum lot width for a multi-family dwelling shall be 150 feet.
 - 3. **Front Yard.** There shall be a minimum front yard building setback of 60 feet.
 - 4. **Side Yard.** There shall be a minimum side yard building setback of 20 feet on each side.
 - 5. **Rear Yard.** There shall be a minimum rear yard building setback of 50 feet.
 - 6. **Height Regulations.** No multi-family dwelling shall exceed 35 feet in height or two and one-half stories.
 - 7. **Minimum Floor Area.** Each unit in a multi-family dwelling shall have a minimum usable floor area of 720 square feet.

**CHAPTER 8C
FLOOD ZONE OVERLAY DISTRICT**

SECTION 8C.01 PURPOSE, RELATIONSHIP TO OTHER PROVISIONS.

- A. The regulations of this Overlay Zoning District are intended to preserve, protect, and enhance the lakes, streams, and wetlands within a flood plain area. The proper regulations of these areas will serve to maintain and improve water quality, both ground and surface; prevent flood damage; protect wildlife habitat; prohibit the location of buildings or structures on soils which are generally not suitable for such use; protect natural watershed; protect the water-based recreational resources of the Township; minimize flood damage to land, buildings and structures; and protect the health, safety and welfare of the residents of the Township.

- B. The provisions, conditions, and restrictions of this chapter shall be deemed to apply in addition to and, where applicable, to take precedence over the provisions, conditions, and restrictions of the underlying zoning district shown in the official zoning map, and other general provisions of the Township Zoning Ordinance and other Township ordinances which are not made specifically applicable to lands lying within this district, including but not limited to Sections 4.02, 4.23 and Chapter 14 of the Zoning Ordinance. No provisions of this chapter shall be deemed to lessen or diminish other provisions, conditions, restrictions of this Ordinance, other ordinances of Polkton Township, the Michigan Building Codes, or state and federal laws and regulations.

- C. Prior to obtaining a building permit or undertaking any other activity permitted in this district, the applicant shall obtain all required permits from the Department of Environmental Quality, Department of Natural Resources, County Health Department, and other national, state or local agencies, including but not limited to permits for filling within flood areas, soil erosion permits, permits required for activities in proximity to waterways by the Michigan Natural Resources and Environmental Protection Act, and all other required permits.

SECTION 8C.02 PERMITTED USES.

Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. General and specialized farming of agricultural products and agricultural activities, including the raising or growing of crops, livestock, poultry, bees and other farm animals and farm products, orchards, vineyards, tree farms, sod farms, and wild crop harvesting, not including the construction of buildings for such uses, except as permitted by this chapter.

- B. Non-commercial marinas, limited in use to the owners of residential property adjacent to such location, provided that a minimum of 100 feet of frontage along the water body is provided for each single family residence entitled to use the site.

- C. Commercial marinas, if the underlying zoning district is a commercial zoning district.

- D. Wildlife sanctuaries, nurseries, and nature trails.

- E. Forest and game management.
- F. Fish hatcheries.
- G. Flood overflow and movement of water.
- H. Stream defined bank protection.
- I. Recreational vehicle parking in accordance with Section 4.06 of the Zoning Ordinance.
- J. Accessory uses and structures, provided that any accessory structure is designed and constructed to accommodate a 100-year flood without material damage to the structure, material obstruction of the flood plain, or detriment to other properties.
- K. Roadside stands (seasonal and portable display stands for the retail sale of farm produce.)
- L. Home based businesses.

SECTION 8C.03 SPECIAL USE APPROVAL.

One or more of the following uses may be allowed after approval and issuance of a special use permit.

- A. Hunting and fishing clubs, excluding outdoor ranges for discharging firearms.
- B. Small tower-mounted wind energy turbines and, on structures otherwise permitted, small structure-mounted wind energy turbines.
- C. Reconstruction of a building or structure approved for use as a residence, permanent or temporary, prior to the effective date of this chapter, in accordance with the following standards:
 1. Reconstruction of the building shall be otherwise permissible in accordance with the standards of Chapter 14 of the Zoning Ordinance.
 2. There shall be no other location on the lot, outside of the Flood Plain Overlay District, at which the building may feasibly be reconstructed.
 3. In the case of total reconstruction, the ground floor and any inhabited room floor level must be at or above the regulatory flood level. “Regulatory flood level” shall be defined for purposes of this section to mean one foot above the water surface profile associated with the 100-year flood frequency level.
 4. Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood level, or these facilities shall be adequately flood proofed.
 5. The reconstruction shall be designed and anchored to prevent flotation, collapse, or lateral movement of the building or structure.

6. Any new or replacement on-site water supply or waste disposal system must be located so as to avoid its impairment or contamination from flooding. All required approvals must be obtained from the Ottawa County Public Health Department and all other governmental agencies having jurisdiction.
7. Reconstruction must conform to the performance requirements and criteria as established by the applicable building codes, and the National Flood Insurance Program, as amended from time to time.

SECTION 8C.04 PROHIBITED USES.

The following uses are expressly prohibited within the Floodplain District.

- A. No building or structure intended for use as a residence, permanent or temporary, or a commercial or industrial use may be erected, constructed, or moved into the Floodplain District.
- B. No landfill, dump, salvage yard, or junkyard shall be allowed.
- C. On-site sewage disposal systems of any type are prohibited, unless approved by the Ottawa County Environmental Health Department.
- D. The storage or processing of materials which, in time of flooding, become buoyant, flammable or explosive or are likely to deteriorate, or otherwise be injurious to the public health, adjacent waters of tributaries.

SECTION 8C.05 MAPPING DISPUTES.

- A. It is the intent of this chapter that the Flood Plain Overlay District shall follow the boundaries of special flood hazard zones designated on the official maps issued by the Federal Insurance Administration. Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.
- B. Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.
- C. All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.

**CHAPTER 9
PLANNED UNIT DEVELOPMENT (“PUD”) DISTRICT**

SECTION 9.01 PLANNED UNIT DEVELOPMENT.

Planned Unit Development (PUD) includes cluster zoning, plan development, community unit plan, planned residential development, and other similar terminology. The objectives of this chapter are realized through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. It is a form of land development comprehensively planned as an entity by way of a site plan, which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such development may contain residential, nonresidential or a mixture of land uses as provided by the individual zoning district.

SECTION 9.02 INTENT AND PURPOSE.

The provisions of this chapter provide requirements and standards for the submittal, review and approval of applications for PUDs. The PUD regulations are designed to accomplish the objectives of this chapter through a project review process based on the application of the site planning principles included in this Ordinance. It is the goal of this chapter to achieve integration of proposed land development projects with the characteristics of the project area. These PUD regulations are intended to:

- A. Permit flexibility in the regulation of land development;
- B. Encourage innovation in land use and variety in design, layout and type of structures constructed;
- C. Achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities;
- D. Encourage provision of useful open space; and
- E. To provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the development.

Further, it is the purpose of the PUD regulations to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The provisions of this chapter are not intended as a device for ignoring or circumventing this Ordinance or the planning upon which it has been based.

SECTION 9.03 PUD AS A SEPARATE ZONING DISTRICT.

Any land meeting the eligibility criteria and design standards of this chapter may be zoned or rezoned to the PUD District.

SECTION 9.04 ELIGIBILITY CRITERIA.

To be eligible for PUD approval, the applicant must demonstrate that the proposed PUD development would comply with the following criteria:

- A. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community.
- B. The minimum land area necessary to be considered for a PUD shall not be less than ten acres.
- C. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities, and utilities.
- D. The proposed PUD development shall be consistent with the provisions of the Township Master Plan.
- E. The proposed development shall be consistent with the intent and purpose of this chapter, as stated in Section 9.02.
- F. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this Ordinance.
- G. The proposed PUD shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the PUD regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is given immediately to the Township Clerk.

SECTION 9.05 PROJECT DESIGN STANDARDS.

Proposed PUDs shall comply with the following project design standards:

- A. **Location.** A PUD may be approved in any zoning district subject to review and approval as provided herein.
- B. **Applicable Base Regulations.** Unless waived or modified in accordance with subsection C, the yard and lot coverage, parking, loading, landscaping, lighting, and other standards for the underlying district (i.e., the zoning district in which the subject property was zoned prior to PUD rezoning) shall be applicable for uses proposed as a part of a PUD. Mixed uses shall comply with the regulations applicable for each individual use, except that if regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply. The site standards for all individual land uses and facilities as provided in this Ordinance (such as special land uses) must be observed unless waived by the Planning Commission and Township Board for any, or all, of the specific uses and facilities.
- C. **Regulatory Flexibility.** To encourage flexibility and creativity consistent with the PUD concept, departures from the regulations in subsection B, above, may be permitted, subject to review and approval by the Planning Commission and Township Board. For example, such

departures may include but are not limited to modifications in lot dimensional standards; floor area standards; setback requirements; parking, loading, and landscaping requirements; and similar requirements. Such modifications may be permitted only if they will result in a higher quality of development than would be possible without the modifications.

D. Residential Density. Density in a residential PUD shall be determined as follows:

1. Overall density shall be the same as if each lot were to satisfy the minimum lot size requirements of the underlying district, as established by the Existing Zoning Plan required by Section 9.06.B.3 of this chapter.
2. The area within public and/or private street rights-of-way shall not be included in the overall density calculation.
3. Slopes of 20 percent or greater, regulated and unregulated wetlands, public utility easements, floodplains, and other similar features which limit or prevent construction of buildings or roads, shall be identified on the site plan and shall not be included in the overall density calculation.
4. Density Bonus.
 - a. A density bonus of up to 10 percent over what is allowed by this subsection D may be granted, at the discretion of the Planning Commission and Township Board, if the development provides additional amenities or preserves additional open space which would result in significant recognizable benefit to the Township and residents of the PUD. Items which could be added to a PUD so as to make it eligible for consideration for a density bonus shall include one or more of the following items, as well as similar items:
 - i. Provision of recreational facilities, such as playground areas with play equipment, ball fields, golf course, bike path, walking path, man-made lake, community building or similar recreation facility.
 - ii. Additional landscaping and screening to preserve or enhance the rural view along the adjacent roadway.
 - iii. Enhancement of existing wetlands, subject to applicable regulations.
 - iv. Provision of additional unique open space or mature stands of trees which would be of recognizable benefit to Township residents.
 - v. Provision of a public or private community water and/or sanitary sewer system.
 - b. A bonus density under the terms of this subsection shall be available only for single family dwellings, but shall not be available for two-family or multiple family dwellings. For PUDs containing a mix of housing types, a bonus

density shall be available only for the single family dwelling portion of the PUD.

E. **Permitted Uses and Mix of Uses.** Any land use authorized in the underlying district may be included in a PUD as a principal or accessory use. Where the existing underlying zoning district is residential (i.e., excluding the AG-1 District), non-residential uses may be permitted, in the discretion of the Planning Commission and Township Board, as part of a PUD that also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant. The Planning Commission and Township Board shall determine predominance of use through the application of the following criteria as they apply to each of the proposed uses:

1. The extent to which it serves residents in the PUD compared to others who travel to the site.
2. The amount of traffic generated.
3. The hours of operation or use.
4. The noise, odors, and overall impact on adjoining uses.
5. The land area allocated to each use.
6. The building area allocated to each use.

Where residential development is the principal use and a commercial component of the PUD is predominantly designed to serve persons other than those to reside in the PUD, the commercial component shall not be permitted.

F. **Open Space Requirements.** PUDs containing a residential component shall provide and maintain usable open space consisting of at least 30 percent of the land area proposed for development under the provisions of this chapter. The open space shall remain in a perpetually undeveloped state by means of a irrevocable conveyance, such as a deed restriction, conservation easement, restrictive covenant, or other legal instrument that runs with the land, as approved by the Township attorney.

1. The legal instrument creating the required open space shall:
 - a. Require that the open space be maintained by private property owners with an interest in the open space.
 - b. Provide maintenance standards and a maintenance schedule.
 - c. Allow the Township to assess private property owners with an interest in the open space for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.

2. The following areas shall not constitute open space:
 - a. The area within all public street rights-of-way.
 - b. The area within all private street easements.
 - c. Any easement for overhead utility lines, unless adjacent to open space.
 - d. The area within a platted lot, site condominium unit or metes and bounds parcel occupied by a structure not permitted to be located in open space.
 - e. Off-street parking and/or loading areas.
 - f. Detention and retention ponds.
 - g. Community drain fields.
 - h. Fifty percent of the area of wetlands, creeks, streams, ponds, lakes or other bodies of water.
 - i. Fifty percent of the area of flood plains and steep slopes 20 percent or greater.

3. The following standards shall apply to the open space required pursuant to this section:
 - a. The open space shall not include a golf course.
 - b. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, an agricultural use or other use which, as determined by the Planning Commission or Township Board, is substantially similar to these uses.
 - c. The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
 - d. If the land contains a lake, stream or other body of water, the Planning Commission or Township Board may require that a portion of the open space abut the body of water. Access to and the use of any such body of water shall be subject to reasonable conditions and restrictions imposed by the Planning Commission or Township Board.
 - e. A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help reduce the view of houses on the land from the adjacent roadway and to preserve the rural view.

- f. If the PUD is proposed to be located on lands abutting other lands that are zoned or used for residential purposes, a portion of the open space shall be located along the property boundary abutting that adjacent land. The depth of this area shall be at least 20 feet, and this area shall be left in its natural condition or be landscaped so as to reasonably screen the view of the adjacent land.
 - g. A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
 - h. Open space shall be located so as to be reasonably accessible to the residents of the PUD. Safe and convenient pedestrian access points to the open space from the interior of the PUD shall be provided.
 - i. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land. If these type of land features are not present on the land, then the open space shall be centrally located, along the road frontage.
 - j. Where feasible, open space shall to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
- G. **Access.** Ingress and egress openings from the PUD development onto a public or private road shall be limited to one per 200 feet. The nearest edge of any entrance or exit drive shall be located no closer than 100 feet from any street or road intersection (measured from the nearest intersection right-of-way line).
- H. **Utilities.** All utilities serving a PUD, including electric, telephone, and cable television lines, shall be placed underground.
- I. **Private Streets.** Public or private streets are permitted within a PUD. Where private streets are provided, they shall conform to the private street requirements of Chapter 20 of this Ordinance. The Planning Commission or Township Board may, however, modify the requirements for private streets and in doing so, shall consider the following criteria:
- 1. Number and type of dwelling units served by the private street.
 - 2. Traffic generation.
 - 3. Existing topography and vegetation.
 - 4. Security provisions.
 - 5. Inter-relationship with the public street network.
 - 6. Future installation of public utilities.
 - 7. Likelihood of public dedication of the roadway.

- J. **Grading; Drainage.** Grading and drainage design within the PUD shall comply with the following requirements:
1. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
 2. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission or Township Board. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission or Township Board.
 3. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
 4. The location of roads, drainage structures and building sites, driveway locations, drain fields and drain field locations shall be designed to minimize the clearing of desirable vegetation and the alteration of existing slopes and drainage patterns.
 5. The PUD shall be designed and constructed so as to avoid serious adverse effects of storm water runoff from roads, driveways, other improvements and other aspects of the PUD. Appropriate detention and/or retention basins, ditching, storm sewers and other means shall be provided so as to fully control and properly manage storm water runoff, so as to avoid adverse effects resulting from erosion of lands both during construction and thereafter.
 6. Roads shall be located away from areas of steep slopes.
- K. **Sidewalks.** The Planning Commission or Township Board may, in their discretion, require sidewalks in a PUD.
- L. **Sensitive Natural Features.** All sensitive natural features such as drainageways and streams, wetlands, lands within the 100-year floodplain, and stream or riverbanks, shall remain unencumbered by any principal or accessory buildings and structures.
- M. **Parking Areas.** Parking areas shall be so designed to maximize and encourage the use of landscape breaks and/or buffers to minimize the unbroken expanse of surfaced area, and shall conform to the specific requirements of Chapter 13.
- N. **Street Lighting.** The Planning Commission or Township Board may require street lighting in the PUD as determined to be necessary to protect the public health, safety and welfare of the individuals in the development, those immediately adjacent and the community as a whole.

O. **General Residential PUD Design Requirements:** All residential PUDs or PUDs containing a residential component shall comply with the following additional general design requirements:

1. Where reasonably practicable, home sites shall be situated toward the interior of the PUD, or shall be so located in relation to trees and other natural features so as to reasonably buffer dwellings from the view from public streets or other lands. Such buffering of dwellings need not obscure such dwellings entirely, but shall help to avoid such dwellings constituting the predominant view along public streets.
2. Building envelopes shall not be located on top of prominent hilltops, ridges or steep slopes, or in proximity to wetlands or other environmentally sensitive areas.
3. The entrance or entrances to the development shall be no wider than necessary to accommodate any necessary acceleration lanes and provide adequate sight distance. Prominent boulevards, landscaping, planters, fences and other amenities designed to call undue attention to the development shall not be permitted.
4. There may be a sign identifying the name of the development, located near the main entrance thereof, together with such other sign or signs as may be approved by the Planning Commission and Township Board. All such signs shall comply with applicable provisions of Section 4.16 of this Ordinance.
5. Adequate provision shall be made for the disposal of sanitary sewage and the providing of domestic water supply, in accordance with the standards and requirements of Section 4.10 of the Township Subdivision Control Ordinance.
6. In order to provide variety in the appearance of multiple family dwellings, and to encourage multiple family dwellings which are in keeping with the rural character of the Township, multiple family buildings in a PUD shall be designed and constructed to avoid excessive length and box-like appearance and to have varied architectural features.

P. **Commercial Mixed-use PUDs.** Commercial mixed-use PUDs shall satisfy the following additional requirements:

1. PUDs shall be designed and developed with a unified architectural treatment. Creative architectural features shall be encouraged, including pitched or varied rooflines, creatively designed façades, shingled roofs, and exterior finishes emphasizing the use of wood, brick and other natural materials.
2. In the case of PUDs that include both residential and commercial buildings, the exterior materials shall be reasonably compatible with those used in the residential buildings.
3. The commercial portion of a mixed use PUD shall complement the overall PUD plan and the commercial buildings therein shall have an architecture and appearance that are reasonably compatible with the residential portion of the PUD.

4. In mixed use PUDs, commercial uses shall be physically separated from adjacent, less intensive uses, by means of berms, roads, greenbelts or appropriate distances.
5. Loading docks, refuse accumulation areas, truck maneuvering areas and other utility or service areas shall be appropriately screened from view by landscaping, berms or other effective means.

Q. **Compliance with Site Plan Requirements.** All PUDs shall otherwise comply with the standards for site plan approval, as stated in Section 16A.04 of this Ordinance.

SECTION 9.06 REVIEW AND APPROVAL PROCEDURES.

A. **Optional Pre-application Conference.** Before submitting an application for a PUD, the applicant may meet with the Planning Commission to submit information regarding the proposed PUD and to confer with the Planning Commission about the proposed application and the PUD.

B. **Preliminary Development Plan.**

1. An applicant for PUD rezoning shall submit a site plan of the proposed PUD development which contains the information required for site plans according to Chapter 16A of this Ordinance, and the following additional information:
 - a. A narrative describing the PUD.
 - b. Proposed restrictive covenants for the development.
 - c. Wooded areas, wetlands, ponds, streams or other bodies of water.
 - d. Proposed building envelopes and areas for drain fields and set aside drain fields.
 - e. Description of means proposed to dispose of sanitary sewage and supply potable water.
 - f. Areas proposed to be left in a natural state, and areas proposed for open space uses.
 - g. The required fee and escrow deposit established by resolution of the Township Board.
2. If required by the Planning Commission, the preliminary development plan shall include additional information reasonably necessary to determine and consider the environmental impact of the development, impact on services to be provided by governmental units and school districts and traffic. The Planning Commission may, in addition, request that the applicant obtain comments from the County Health Department, County Road Commission, County Drain Commissioner, Department of

Natural Resources, Department of Environmental Quality, and other governmental units regarding impacts on matters within their jurisdiction.

3. **Existing Zoning Plan.** For residential PUDs or PUDs containing a residential component, the applicant shall also submit an Existing Zoning Plan prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the PUD option provided by this chapter were not exercised. The Existing Zoning Plan may be conceptual in nature but shall include at least the following information:

- a. Date, north arrow and scale, which shall not be more than 1"=100', and, in all cases, the scale shall be the same as that utilized for the preliminary PUD development plan.
- b. Location of streets and driveways.
- c. Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
- d. Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
- e. If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the Existing Zoning Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Ottawa County Health Department.
- f. The Existing Zoning Plan shall illustrate all slopes of 20 percent or greater, regulated and unregulated wetlands, public utility easements, flood plains, and other similar features which limit or prevent construction of buildings or roads.

C. Review of Preliminary Development Plan and Existing Zoning Plan.

1. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the PUD, together with any recommended change or modification thereof. The recommendations shall be based upon consideration of the requirements of this Ordinance and, in particular, the requirements of this chapter.
2. When reviewing an application submitted under the terms of this chapter, the Planning Commission shall also determine whether the Existing Zoning Plan accurately reflects the number of dwelling units that could be developed on the land

under its existing zoning if the PUD option provided by this chapter were not exercised. If the Planning Commission determines that the number of dwellings illustrated on the Existing Zoning Plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, if the PUD option provided by this chapter were not exercised, the applicant shall be required to submit a revised preliminary PUD development plan reflecting the permitted number of dwellings, as determined by the Planning Commission.

- D. **Advisory Public Hearing.** In the course of its consideration of the preliminary development plan, the Planning Commission may, but is not required to, convene an advisory public hearing to receive public comments concerning the preliminary development plan. Informal notice of such advisory hearing shall be given by one publication and by mail to all persons to whom any real property is assessed within 300 feet of the lands included in the PUD, not less than seven days prior to the date of the advisory public hearing. Failure to give notice of such an advisory public hearing shall not affect the validity of the proceedings.
- E. **Final Development Plan.** After receiving the recommendations of the Planning Commission concerning the preliminary development plan, the applicant shall submit a final development plan to the Township, which contains the information required for a preliminary development plan, and which addresses other matters requested by the Planning Commission. Copies of the final development plan and an application for PUD rezoning, shall be forwarded to the Planning Commission. The plan shall also state the projected time for completion of the PUD, any proposed phasing of the PUD, and the projected time for completion of each phase.
- F. **Public Hearing on Final Development Plan.** The Planning Commission shall hold a public hearing on the final development plan and the application for rezoning. Notice of the hearing shall be given in the manner required by Section 15.08 of this Ordinance. **(Amended by Ord. No. 06-65.)**
- G. **Recommendation by Planning Commission.** After public hearing, the Planning Commission shall make recommendations to the Township Board regarding the final development plan. The Planning Commission may recommend in favor of rezoning the lands in accordance with the final development plan; it may recommend against rezoning of the lands in accordance with the final development plan; or it may recommend such rezoning only if certain changes or modifications in the PUD are made or if certain specific conditions are imposed.
- H. **Consideration by Township Board.**
 - 1. The Township Board shall hold a public hearing on the final development plan and the application for rezoning. Notice of the hearing shall be given in the manner required by Section 15.08 of this Ordinance.
 - 2. The Township Board shall review the final development plan and the recommendations submitted by the Planning Commission. The Township Board shall determine whether the final development plan complies with the standards,

conditions and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the purposes of this chapter. Upon a determination of the project and of each such standards, conditions and requirements, the Township Board may approve the final development plan and grant the rezoning request, or deny such plan and request, or approve with conditions. **(Subsection H amended by Ord. No. 81-2010.)**

- I. **Conditions of Approval.** The Planning Commission or Township Board may impose reasonable conditions upon approval to protect the environment and conserve natural resources and energy, to ensure compatibility with adjacent use of lands, and promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
1. Shall be designed to protect natural resources, the health, safety and welfare of those who will use the proposed project, residence and landowners immediately adjacent to the project, and the community as a whole.
 2. Shall be related to the valid exercise of the police power, and related to purposes which are affected by the proposed project.
 3. Shall be necessary to meet the intended purpose of this Ordinance, be related to the standards established in the ordinance for the proposed PUD under consideration, and be necessary to ensure compliance with those standards.

SECTION 9.07 AMENDMENTS IN AN APPROVED PUD.

- A. An approved final PUD development plan, and any terms and conditions included in the final PUD plan, shall not be changed or revised except upon the approval of the Planning Commission and Township Board, except as stated in this section concerning minor changes.
- B. A minor change in an approved PUD may be approved by the Planning Commission, at a public meeting, but without the need for a public hearing or a special public notice, if the change does not substantially alter the basic design or modify the conditions included in the PUD, such minor changes being the following:
1. Reduction of the size of any building and/or sign.
 2. Changes in the placement of buildings and/or signs by not more than a minor amount, as determined by the Planning Commission.
 3. Changes in floor plans which do not alter the nature of the use.
 4. Changes in building materials to a higher quality.
 5. Internal rearrangement of a vehicle parking area which does not affect the number of parking spaces or change access locations or design.
 6. Changes required by the Township for reasons of safety.

7. Changes which will preserve the natural features of the site without changing the basic site layout or site design.
8. Other similar changes of a minor nature proposed to be made in the configuration, design, layout or topography of the PUD and which are determined by the Planning Commission to be not material or significant in relation to the entire site and which the Planning Commission determines would not have any significant adverse effect on adjacent or nearby lands or the public health or safety.

SECTION 9.08 PERFORMANCE GUARANTEES.

- A. The Township Board, after recommendation by the Planning Commission, may require reasonable performance guarantees, consisting of a performance bond, letter of credit or other satisfactory written assurance or guarantee.
- B. The amount of the performance bond, letter of credit or other guarantee shall be determined by the Township Board, after Planning Commission recommendation. Such guarantees shall be conditioned upon timely and faithful compliance with all of the terms, provisions and requirements of the PUD, and the construction and completion of all improvements therein.
- C. In its discretion, the Township Board, upon recommendation by the Planning Commission, may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of improvements that have been completed.

SECTION 9.09 TIME LIMITATION ON PUD DEVELOPMENT.

- A. A PUD shall be under construction and shall proceed diligently toward completion within one year after the date of approval of the final PUD plan and adoption of the PUD ordinance by the Township Board. If this requirement is not complied with, the Planning Commission may in its discretion grant an extension not exceeding one year, if the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the PUD.
- B. If a PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, any building permits or other approvals issued for the PUD or any part thereof shall be of no further effect. In such circumstances, the Planning Commission and Township Board may, in their discretion, commence and complete proceedings for the rezoning of the lands to some other zoning district.

**CHAPTER 9A
OPEN SPACE PRESERVATION**

SECTION 9A.01 PURPOSE.

The Michigan Zoning Enabling Act, Public Act 110 of 2006 (“Act 110”) requires that zoned townships having a population of 1,800 or more and having undeveloped land zoned for residential development must adopt provisions in their zoning ordinances known as “open space preservation” provisions, which permit land satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 50 percent, that, as determined by the Township, could otherwise be developed, under existing ordinances, laws and rules, on the entire land area. The purpose of this chapter is to adopt open space preservation provisions consistent with the requirements of Act 110. **(Amended by Ord. No. 06-65.)**

SECTION 9A.02 QUALIFYING CONDITIONS.

- A. Land may be developed under the provisions of this chapter only if each of the following conditions is satisfied:
1. The land shall be zoned in the R-1, R-2 or R-5 Zoning District, and shall not be zoned in the AG-1 District. **(Amended by Ord. No. 06-67, amended by Ord. No. 99-15, eff. June 28, 2015.)**
 2. The zoning district in which the land is located shall permit development at a density equivalent to two or fewer dwelling units per acre, if the land is not served by a public sewer system; or shall permit development at a density equivalent to three or fewer dwelling units per acre, if the land is served by a public sanitary sewer system.
 3. The development of land under this chapter shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this chapter would also depend on such extension.
 4. The clustering option provided pursuant to this chapter shall not have previously been exercised with respect to the same land.
- B. If all of the preceding conditions are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions of this chapter.

SECTION 9A.03 PERMITTED USES.

Only those land uses permitted by right or as a special land use in the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this chapter. However, with regard to special land uses, such uses shall be permitted only if approved by the Planning Commission and Township Board in accordance with the provisions of Chapter 21 of this Ordinance.

SECTION 9A.04 APPLICATION AND REVIEW PROCEDURE.

- A. The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this chapter shall be those stated in Chapter 16A of this Ordinance, governing Site Plans, except as otherwise provided in this section. If the cluster option permitted by this chapter is proposed as a platted subdivision or a site condominium development, the applicant must also submit all information required under the Township Subdivision Ordinance or Chapter 22 of this Ordinance, as applicable.

- B. In addition to the application materials required by Chapter 16A of this Ordinance, an application for the development of land under the provisions of this chapter shall include the following:
 - 1. An existing zoning plan prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised. The Existing Zoning Plan may be conceptual in nature but shall include at least the following information:
 - a. Date, north arrow and scale, which shall not be more than 1"=100,' and, in all cases, the scale shall be the same as that utilized for the site plan illustrating the proposed development using the clustering option permitted by this chapter.
 - b. Location of streets and driveways.
 - c. Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - d. Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
 - e. If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the Existing Zoning Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Ottawa County Health Department.
 - f. The Existing Zoning Plan shall illustrate all unbuildable land, which shall include slopes of 20 percent or greater, regulated and unregulated wetlands, public utility easements, flood plains, and other similar features which limit or prevent construction of buildings or roads. Each lot shown on the Existing Zoning Plan shall contain at least 15,000 square feet of buildable area.

2. A copy of the conservation easement, plat dedication, restrictive covenant, or other legal instrument that would run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this chapter in an undeveloped state. Such legal instrument shall be reviewed by the Township attorney prior to recording, and shall be subject to the approval of the attorney, consistent with the terms of this chapter. The legal instrument shall:
 - a. Indicate the proposed permitted use(s) of the undeveloped open space.
 - b. Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that are approved by the Planning Commission.
 - c. Require that the undeveloped open space be maintained by parties who have an ownership interest in the undeveloped open space.
 - d. Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of trees and new plantings.
3. The site plan for the clustering option permitted by this chapter shall include the following minimum information, in addition to that required by Chapter 16A of this Ordinance:
 - a. Date, north arrow and scale which shall not be more than 1"=100,' and, in all cases, the scale shall be the same as that utilized for the Existing Zoning Plan.
 - b. The site plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
 - c. The site plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for clustered development, and the percentage of each, as compared to the total site acreage.
 - d. The site plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed dwelling lots on the site plan shall not exceed the number of lots on the Existing Zoning Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described in Section 9A.05.K.
 - e. The site plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.

- f. If the clustered development will include septic tanks and drain fields, the site plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Ottawa County Health Department.
 - 4. If the development is to be served by public streets, proof that the Ottawa County Road Commission has approved the design, layout and construction of the streets.
- C. **Determination of Number of Lots by Planning Commission.** When reviewing an application submitted under the terms of this chapter, the Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised. If the Planning Commission determines that the number of dwellings illustrated on the Existing Zoning Plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, if the clustering option provided by this chapter were not exercised, the applicant shall submit a revised site plan for the clustering option reflecting the permitted number of dwellings, as determined by the Planning Commission.
- D. If a site plan satisfies all requirements of Section 16A.04 of this Ordinance, all requirements of this chapter and all conditions of approval imposed by the Planning Commission pursuant to Section 16A.06 of this Ordinance, the Planning Commission shall approve the site plan. If the cluster option permitted by this chapter is proposed as a platted subdivision or a site condominium development, the applicant shall also demonstrate compliance with all requirements of the Township Subdivision Ordinance or Chapter 22 of this Ordinance, as applicable, before the Planning Commission may approve the development. In addition, if the site plan contains special land uses, the applicant must obtain approval from the Planning Commission and Township Board pursuant to Chapter 21 of this Ordinance.

SECTION 9A.05 DEVELOPMENT REQUIREMENTS.

- A. **Required Open Space.** At least 50 percent, but no more than 60 percent of the land proposed for development under the provisions of this chapter shall remain in a perpetually undeveloped state (i.e., “open space”) by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land, as approved by the Township attorney. The following areas shall not constitute open space:
- 1. The area within all public street rights-of-way.
 - 2. The area within all private street easements.
 - 3. Any easement for overhead utility lines, unless adjacent to open space.
 - 4. The area within a platted lot, site condominium unit or metes and bounds parcel occupied by a structure not permitted to be located in open space.
 - 5. Off street parking and/or loading areas.

6. Detention and retention ponds.
7. Community drain fields.
8. Fifty percent of the area of wetlands, creeks, streams, ponds, lakes or other bodies of water.
9. Fifty percent of the area of flood plains and steep slopes (20 percent or over).

B. Standards for Open Space. The following standards shall apply to the open space required pursuant to this chapter:

1. The open space shall not include a golf course.
2. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, an agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
3. The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
4. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water. Access to and the use of any such body of water shall be subject to reasonable conditions and restrictions imposed by the Planning Commission.
5. A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help reduce the view of houses on the land from the adjacent roadway and to preserve the rural view.
6. If the clustered development is located on lands abutting other lands that are zoned or used for residential purposes, a portion of the open space shall be located along the property boundary abutting that adjacent land. The depth of this area shall be at least 20 feet, and this area shall be left in its natural condition or be landscaped so as to reasonably screen the view of the adjacent land.
7. A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
8. Open space shall be located so as to be reasonably accessible to the residents of the clustered development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
9. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.

If these type of land features are not present on the land, then the open space shall be centrally located, along the road frontage.

10. Open space is encouraged to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
- C. **Use of Open Space.** All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Planning Commission, at its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.
- D. **Compliance with Zoning District.** The development of land under this chapter shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except those setback and yard size requirements that must be adjusted to allow the clustering option permitted under this chapter.
- E. **Uniform Lot Size.** Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Planning Commission.
- F. **Building Envelopes.** The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Planning Commission. The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
- G. **Required Frontage.** Each lot shall have a minimum of 40 feet of frontage measured at the street right-of-way line.
- H. **Lot Width.** Each lot shall have a minimum width equal to no less than 70 percent the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the Planning Commission.
- I. **Maximum Number of Lots.** The clustered portion of the development shall contain no more than the maximum number of dwelling lots, as determined from the Existing Zoning Plan approved by the Planning Commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in subsection K.
- J. **Non-Dwelling Unit Structures.** Lots containing non-dwelling structures such as a clubhouse and its related amenities or an accessory building, shall be subject to all requirements of this chapter applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed. However, the Planning Commission may, in its discretion, permit the enlargement of a lot containing a non-dwelling structure so as to reasonably accommodate it.

- K. **Reduction in Lots for Non-Dwelling Structures.** If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:
1. The area of a lot or lots occupied by non-dwelling structures, shall be calculated and then divided by the average area of a dwelling lot that could be situated in the clustered development if the non-dwelling structures were not included in the clustered development, as determined from the approved Existing Zoning Plan. If this number is a fraction, it shall be rounded up to the nearest whole number.
 2. The number calculated under subsection 1 shall be subtracted from the number of dwelling lots that could be permitted in the clustered development in the absence of the non-dwelling structures, as determined from the approved Existing Zoning Plan, in order to determine the maximum number of dwelling lots permitted to be included in the clustered portion of the development with the non-dwelling structures included.
- L. **Perimeter Lots.** Notwithstanding any other provision of this chapter, the Planning Commission may require that the clustered development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
- M. **Sidewalks.** The Planning Commission may, in its discretion, require sidewalks in a clustered development.
- N. **Grading.** Grading within the clustered development shall comply with the following requirements:
1. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
 2. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission.
 3. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
- O. **Private Streets.** Private streets within a clustered development shall conform to the private street requirements of Chapter 20 of this Ordinance. The Planning Commission may, however, modify the requirements for private streets and in doing so, shall consider the following criteria:

1. Number and type of dwelling units served by the private street.
 2. Traffic generation.
 3. Existing topography and vegetation.
 4. Security provisions.
 5. Inter-relationship with the public street network.
 6. Future installation of public utilities.
 7. Likelihood of public dedication of the roadway.
- P. **Other Laws.** The development of land under this chapter is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

SECTION 9A.06 AMENDMENTS TO AN APPROVED SITE PLAN.

- A. An approved clustered site plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, except as otherwise stated below.
- B. In its discretion, the Township Board may appoint a person having the authority to approve minor changes to a clustered site plan. If the Township Board does appoint such a person, the appointee shall notify the Planning Commission of all minor changes and that such changes do not substantially alter the basic design or conditions required for the plan by the Commission.

The following items shall be considered minor changes:

1. Reduction of the size of any building, building envelope or sign.
2. Movement of buildings or signs by no more than ten feet.
3. Plantings approved in the landscaping plan may be replaced by similar types of plantings.
4. Changes requested by the Township for safety reasons.
5. Changes which will preserve natural features of the land without changing the basic site layout.
6. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site development plan which are deemed by the appointee to be not material or significant in relation to the entire site and which the

appointee determines would not have any significant adverse effect on the development or on adjacent or nearby lands or the public health, safety and welfare.

- C. The appointee may refer any decision regarding any proposed change in an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the appointee may consult with the chairperson of the Planning Commission.
- D. Should the appointee determine that a requested change in the approved site plan is not minor, resubmission to the Planning Commission for an amendment shall be required, and the consideration thereof shall take place in the same manner as for an original application.
- E. If the Township Board has not appointed a person with the authority to approve minor changes to an approved clustered site plan, all proposed changes, whether considered minor or major, shall be submitted to the Planning Commission for consideration in the same manner as for an original application.

SECTION 9A.07 PERFORMANCE GUARANTEES.

The Planning Commission, in its discretion, may require reasonable performance guarantees or assurance deemed satisfactory in the circumstances and authorized by law. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved clustered site plan, including any conditions thereto, and construction and placement of all the improvements required thereby.

In its discretion, the Planning Commission may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission.

SECTION 9A.08 TIME LIMITATIONS ON DEVELOPMENT.

Each development permitted pursuant to this chapter shall be under construction within one year after the date of approval of the site plan by the Planning Commission. If this requirement is not met, the Planning Commission may, in its discretion, grant an extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the clustered development.

If the clustered development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the Planning Commission under the terms of this chapter in order to exercise the clustering option.

CHAPTER 10
C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

SECTION 10.01 DESCRIPTION AND PURPOSE.

This zoning district is for neighborhood convenience shopping including retail businesses or service establishments which supply commodities or perform services which meet the daily needs of the neighborhood.

SECTION 10.02 PERMITTED USES.

Land, buildings, or structures in this zoning district may be used for the following purposes only, if approved by the Planning Commission, following site plan review under Chapter 16A:

- A. Those non-residential uses which are permitted in the residential zoning districts, subject, except as specifically provided otherwise in this chapter, to the same conditions, restrictions, and requirements as are provided in residential zoning districts; provided, however, that churches shall be considered a permitted use in the C-1 District pursuant to site plan approval under Chapter 16A of this Ordinance.
- B. Bakery.
- C. Banks, loan and/or finance offices.
- D. Barber or beauty shop.
- E. Book, stationery or gift store.
- F. Candy store, soda fountain and/or ice cream store.
- G. Clothes cleaning and/or laundry pick-up station.
- H. Clothing and dry goods store.
- I. Delicatessen store.
- J. Drug store.
- K. Florist and gift shop without nursery.
- L. Funeral home without crematory.
- M. Grocery store and meat market.
- N. Hardware store.
- O. Household appliance store.
- P. Jewelry store.

- Q. Nursery school and day nurseries.
- R. Paint and wallpaper store.
- S. Parking lots.
- T. Photography studio.
- U. Radio and television store.
- V. Restaurants and/or cafes without dancing, floor shows or drive-in service.
- W. Laundromats.
- X. Shoe repair shop.
- Y. Tailor and/or dress maker.
- Z. Variety store including notions and “five and ten” stores.
- AA. Other similar retail business or service establishments which supply convenience commodities or perform services primarily for residents of the surrounding neighborhood, but only if authorized by the Planning Commission upon its determination that the proposed use (a) has specific characteristics that would be substantially similar to the characteristics of a listed permitted C-1 use; (b) would not change the essential character of the district; and (c) would be consistent with the master plan.
- BB. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs).

SECTION 10.03 SPECIAL LAND USES.

The following uses may be authorized by the Township Board as a special land use pursuant to Chapter 21 of this Ordinance:

- A. Service stations, including minor auto repairs, if all repair work is conducted wholly within a completely enclosed building. In considering such authorization, the following standards shall be considered, in addition to the standards of Section 21.05:
 - 1. The size, nature and character of the gas station.
 - 2. The proposed location of the gas station with respect to potential traffic congestion or hazards.
 - 3. The location of the entrance drives and access to the gas station with respect to potential traffic congestion and hazards.
 - 4. How well the gas station harmonizes, blends with and enhances adjoining properties and the surrounding neighborhood.

5. The need and necessity for the products and services of the gas station at the proposed location.
6. The effect of the gas station on adjoining properties and the surrounding neighborhood.

B. Medium Wind Energy Turbines (MWETs).

SECTION 10.04 REQUIRED CONDITIONS.

- A. For any use permitted in this zoning district, no building permit shall be issued until the site plan has first been approved by the Planning Commission in accordance with Chapter 16A.
- B. With the exception of automobile parking and off-street parking, and except as otherwise expressly authorized by this chapter, all business, service or processing shall be conducted wholly within a completely enclosed building.
- C. All goods produced on the premises shall be sold at retail on the premises where produced.

SECTION 10.05 DISTRICT REGULATIONS.

All development in the C-1 District shall conform with the applicable requirements of the Overlay District.

(Ch. 10 amended in its entirety by Ord. No. 90-12.)

CHAPTER 11
C-2 GENERAL COMMERCIAL DISTRICT

SECTION 11.01 DESCRIPTION AND PURPOSE.

A general commercial district, as distinguished from a neighborhood shopping center, containing uses which include the sale of commodities or performance of services for the entire community.

SECTION 11.02 PERMITTED USES.

Land, buildings, or structures in this zoning district may be used for the following purposes only, if approved by the Planning Commission, following site plan review under Chapter 16A:

- A. Any use permitted in the C-1 Neighborhood Commercial District.
- B. Amusement enterprise.
- C. Antique store.
- D. Automobile display room.
- E. Car wash.
- F. Automobile parts store.
- G. Automobile repair shop or garage, if all operations are conducted within a completely enclosed building.
- H. Automobile storage garage.
- I. Awning or canvas store.
- J. Billiard or pool hall.
- K. Bowling alley.
- L. Business or professional college.
- M. Catering establishment.
- N. Cleaning and dyeing plant.
- O. Contractor (plumbing, heating, electrical, etc.) provided all operations are conducted completely within an enclosed in a building, and provided further that all outdoor storage shall be completely fenced, on all sides, in accordance with the Overlay District.
- P. Department store branch not exceeding 50,000 square feet of sales-generating space.
- Q. Feed Store.

- R. Funeral home including crematory and other ancillary funeral operations.
- S. Intensive automobile maintenance, including spring service, radiator repair, upholstery, recapping and retreading service, and other uses of a similar nature, but only if authorized by the Planning Commission upon its determination that the proposed use (a) has specific characteristics that would be substantially similar to the characteristics of the listed intensive automobile maintenance activities; (b) would not change the essential character of the district; and (c) would be consistent with the master plan. No part of the use or any lot or parking area required in connection therewith are located within 200 feet of any residential or agricultural district.
- T. Laboratory, medical or dental.
- U. Lodge hall, private clubs, veterans' clubs.
- V. Motel or hotel.
- W. Nursery, flower or plant sales, provided that all outdoor storage of incidental equipment and supplies including fertilizer, tools and containers, shall be completely fenced, on all sides, in accordance with the Overlay District.
- X. Parcel delivery station.
- Y. Pet shop, not involving the treatment or boarding of cats or dogs.
- Z. Private school operated as a commercial enterprise.
- AA. Public parking lot, garage or ramp.
- BB. Restaurant, cafe or bar.
- CC. Retail stores.
- DD. Taxidermist.
- EE. Theater (not including drive-in theaters).
- FF. Trade school.
- GG. Commercial enterprises that are similar to the preceding permitted uses, but only if authorized by the Planning Commission upon its determination that the proposed use (a) has specific characteristics that would be substantially similar to the characteristics of a listed permitted C-2 use; (b) would not change the essential character of the district; and (c) would be consistent with the master plan.
- HH. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs).

- II. Adult oriented businesses, subject to the regulations of Section 11.06. **(Added by Ord. No. 91-12.)**

SECTION 11.03 SPECIAL LAND USES.

The following uses may be authorized by the Township Board as a special land use pursuant to Chapter 21 of this Ordinance, provided that no part of the use or any lot or parking area required in connection therewith shall be located within 200 feet of any residential or agricultural district:

- A. Commercial laundry.
- B. Contractor's equipment or machinery sales or rentals.
- C. Drive-through business and drive-in restaurants.
- D. Draying, freighting, or trucking yard.
- E. Medium Wind Energy Turbines (MWETs).
- F. Public utility service or storage yard.
- G. Retail lumber yard, including mill and sash work, if conducted within a completely enclosed building.
- H. Stone monument works.
- I. Truck and/or tractor repair shop.
- J. Veterinary clinic or hospital.

SECTION 11.04 REQUIRED CONDITIONS.

- A. For any use permitted in this zoning district, no building permit shall be issued until the site plan has first been approved by the Planning Commission in accordance with Chapter 16A.
- B. With the exception of automobile parking and off-street parking, and except as otherwise expressly authorized by this chapter, all business, service or processing shall be conducted wholly within a completely enclosed building.
- C. All goods produced on the premises shall be sold at retail on the premises where produced.

SECTION 11.05 DISTRICT REGULATIONS.

All development in the C-2 District shall conform with the applicable requirements of the Overlay District.

SECTION 11.06 ADULT ORIENTED BUSINESS REGULATIONS.

- A. **Purpose.** It is not the intent of this section to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content-neutral regulations which addresses the adverse secondary effects of adult oriented businesses.

There are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated, thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary in order to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area. These special regulations are itemized in this section.

A primary goal of regulation of these uses is to prevent a concentration of the uses in any one area of the Township; to minimize and/or prevent the well-documented adverse secondary effects of such uses; and to protect the integrity of churches and other places of religious worship, schools, licensed day-care facilities, parks and playgrounds, and other areas where persons congregate. Nothing in this section shall be construed as permitting a violation of any state or federal law.

An adult oriented business shall be subject to site plan review and approval by the Planning Commission under Chapter 16A and the following additional provisions.

- B. **Location.** An adult oriented business shall be located only in the C-2 General Commercial District. Further, an adult oriented business shall not be located or operated within 1,000 feet of existing land uses, as follows:
1. Another adult oriented business. This requirement may be waived upon a determination by the Township Board that a second adult oriented business would not contribute to blighting or an excessive concentration of such uses.
 2. A residential dwelling.
 3. Church, synagogue, mosque or other place of religious worship, or a park, playground, school, or licensed day-care facility.

The measurement of the above-stated isolation-distance requirement shall be made by extending a straight line from the property line of the adult oriented business to the nearest property line occupied by any other use or to the property line of any church, synagogue, mosque or other place of religious worship, park, playground, school or licensed day-care facility.

- C. **Signs.** Any text, message, image or picture that depicts or refers to any specified anatomical area or specified sexual activity shall be prohibited. All signs shall comply with the requirements of Section 4.16.
- D. **Building Exterior.** Upon order of the Zoning Administrator, graffiti appearing on any exterior surface of a building or structure shall be removed and that surface restored within

72 hours of notification of the owner or person in charge of the premises. Adult products or services, including any written description of such products or services or any picture or other representation of the same, shall not be displayed so as to be visible from a point outside the establishment.

E. Lighting Requirements.

1. All off-street parking areas and premises entries of adult oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the adult oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.
2. The premises of all adult oriented businesses, except adult motion picture theaters, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination intensity of not less than two foot-candles of light as measured at the floor level.
3. Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination intensity of not less than one foot-candle of light as measured at the floor level.

F. Age Requirement Regulations.

1. It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of an adult oriented business at any time that the adult oriented business is open for business.
2. It shall be the duty of the operator of each adult oriented business to ensure that an attendant is stationed at each public entrance to the adult oriented business at all times during the business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the adult oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished a valid operators, commercial operators, or chauffeurs drivers license; or a valid personal identification certificate issued by the State of Michigan verifying that such person is 18 years of age or older.

G. Hours of Operation. Hours of operation of an adult oriented business shall be limited to 10:00 a.m. to 12:00 p.m.

H. Other Regulations, Permits or Licenses. The provisions of this section do not waive or modify any other provision of this Ordinance, any other ordinance of the Township, or any county, state or federal law or regulation.

I. Alcohol Prohibited. Open alcohol shall not be permitted in any adult oriented business.

J. **Information Submission.** In addition to the information and documents required to be submitted with an application for a site plan approval in accordance with the requirements of this section and Chapter 16A, an applicant seeking to establish an adult oriented business shall submit the following to the Zoning Administrator:

1. A floor plan of the premises showing the following:
 - a. Location and dimensions of any managers station, demonstrating that there is an unobstructed view from a least one of the managers stations of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - b. Location of all overhead lighting fixtures.
 - c. Identification of any portion of the premises in which patrons will not be permitted.
 - d. The location of any stage.
 - e. Identification of the use of each room or other area of the premises.
2. A current certificate and straight-line drawing, prepared within 30 days prior to the application, by a land surveyor depicting the property lines and the structures of the adult oriented business, showing a circle extending 1,000 feet from the property line of the property on which the business will be located, and depicting the property line of any church, synagogue, other place of worship, park, playground, school or licensed day care facility within 1,000 feet of the property on which the business will be located.

K. **Application to be Complete.** The Zoning Administrator shall not accept any application that is not complete in every detail. In the event that the Zoning Administrator determines that an application is incomplete, the Zoning Administrator shall notify the applicant accordingly.

L. **Limit on Reapplication.** No application for an adult oriented business which has been denied in whole or in part shall be resubmitted for a period of one year from the date of the denial, except on the grounds of new evidence not previously available or proof of changed conditions.

M. **Conditions Requiring Rejection of Special Land Use Application.** The Planning Commission shall not approve a site plan application for an adult oriented business if it finds one or more of the following to be true:

1. An applicant is under 18 years of age.
2. An applicant is overdue in payment to the Township of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to an adult oriented business.

3. An applicant has failed to provide information required by the Zoning Ordinance or has knowingly answered a question or request for information falsely.
4. The premises to be used for the adult oriented business have not been approved by the building inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances.
5. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has had an adult oriented business license or adult business license revoked or suspended within one year prior to the date of application.
6. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has operated an adult oriented business or adult business which was determined to be a public nuisance under laws of any state, county, city, village or township within one year prior to the date of application.
7. The applicant is not in good standing or authorized to do business in Michigan.
8. The application fee has not been paid.
9. An application of the proposed adult oriented business is in violation of or is not in compliance with, any of the provisions of this section.
10. The applicant or owner has been convicted of any of the following criminal offenses in any jurisdiction within the last ten years:
 - a. Prostitution, procuring a prostitute, or solicitation of a prostitute.
 - b. Sale, distribution or display of obscene material.
 - c. Sale, distribution or display of material which is harmful to minors.
 - d. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor.
 - e. Possession, sale or distribution of child pornography.
 - f. Public lewdness.
 - g. Indecent conduct with a child.
 - h. Sexual assault or rape.
 - i. Sexual solicitation of a child.
 - j. Contributing to the delinquency of a minor.
 - k. Harboring a runaway child.

N. **Inspection.** An applicant or owner shall permit all representatives of the Township, Ottawa County and the State of Michigan to inspect the premises of the adult oriented business for the purpose of determining compliance with applicable law.

O. **Exterior Structural Requirements.** All adult oriented businesses shall comply with the following exterior structural requirements:

1. The merchandise or activities of the adult oriented business may not be visible from any point outside the business.
2. The exterior portion of the adult oriented business may not utilize flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any kind.
3. It shall be unlawful for the owner or operator of an adult oriented business to allow exterior portions of the adult oriented business to be painted any color other than one neutral color.

P. **Interior Structural Requirements.**

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more managers stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the managers station. The view required in this subsection shall be by direct line of sight from the manager's station.
2. A manager's station shall not exceed 32 square feet of floor area.
3. No alteration to the configuration or location of a manager's station shall be made without the prior approval of the Township Zoning Administrator.
4. Viewing rooms or peep booths shall be separated from other viewing rooms or peep booths by a solid, opaque, uninterrupted physical divider which is a minimum one-inch thick and serves to prevent physical contact between patrons.
5. No private viewing rooms or booths shall be constructed unless one side is always open to a central public area. No door shall be placed on any viewing room or peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent viewing rooms or peep booths.

Q. **Standards of Conduct.** The following standards of conduct shall be adhered to on the premises of the adult oriented business by all employees, managers, officers and agents of any adult oriented business:

1. No owner, manager, employee or entertainer mingling with the patrons or serving food or beverages shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical areas.
2. No employee or entertainer shall engage in, encourage or permit any specified sexual activities on the premises of the adult oriented business.
3. No employee or entertainer while in view of the patrons on the licensed premises shall be unclothed or in such attire, costume or clothing so as to expose any specified anatomical areas, except upon a stage which shall be fixed and immovable at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron or behind a solid, uninterrupted physical barrier which completely separates the entertainer from any patrons. Such barrier shall be a minimum of one-quarter-inch thick and have no openings between the entertainer and any patrons.
4. A list of food and beverage prices shall be conspicuously posted in the common areas of each adult oriented businesses offering entertainment.
5. Any tips for entertainers shall be placed by a patron into a tip box which is permanently affixed in the adult oriented business and no tip may be handed directly to an entertainer. A business that desires to provide for such tips from its patrons shall provide one or more containers to receive tips. Any physical contact between a patron and an entertainer is strictly prohibited.
6. No entertainment occurring on the premises shall be visible at any time from the outside of the premises.
7. An owner, manager or an employee shall not allow the possession, use, or sale of controlled substances on the premises.
8. An owner, manager, or an employee shall not allow prostitution on the premises.
9. An owner, manager, or an employee shall not allow any live specified sexual activity to occur in or about the premises.
10. An owner, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed upon the premises, or upon any parking areas, sidewalks, walkways, access ways or grounds of the premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.
11. At least one manager shall be on duty and situated in each managers station at all times that the business is open to the public.
12. All doors to public areas on the premises shall remain unlocked during business hours.
13. It shall be the duty of the owner, and it shall also be the duty of any agents and employees present in the premises to ensure that any view area or peep booth

remains unobstructed by any doors, curtains, drapes, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

14. No viewing room or peep booth may be occupied by more than one person at any one time.

R. **Massage Parlors.** No establishment, regardless of whether it is a public or private facility, shall operate as a massage parlor or any similar type of business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless the person(s) massaging any client or customer is a graduate of a recognized school and certified as a massage therapist by the American Massage Therapy Association or by the Associated Bodywork and Massage Professionals. In addition:

1. The premises of each massage parlor may be inspected by law enforcement personnel or by the Township zoning enforcement officer during business hours and at other reasonable times to ensure compliance with this Ordinance.
2. No employee of a massage parlor, or any other person associated with a massage parlor, on the premises of a massage parlor, may offer or engage in any specified sexual activity.
3. Each massage parlor and massagist shall comply with the following standards:
 - a. No patron shall be served or treated who is infected with any fungus or other skin infection; nor shall any service be performed on a patron exhibiting skin inflammation or eruptions.
 - b. All massagists shall wash their hands in hot water before giving any service or treatment to each separate patron.
 - c. All towels, tissues, sheets or other coverings shall be used for only one patron and discarded for laundry or disposal immediately after use.
 - d. Nondisposable tools of the trade shall be disinfected after use upon each patron.
 - e. In any establishment in which massage services are rendered to members of the same sex at any one time, such persons of the same sex may be placed in a single, separate room, or the operators of the massage parlor may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside such room or booth while massage services are being performed.
 - f. No massage or massage service may be carried on within any cubicle, room, booth, or area within a massage parlor which is fitted with a door capable of being locked.

g. Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, as well as a minimum of one toilet and wash basin, shall be provided by every massage parlor; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room, or rooms, separate dressing and separate toilet facilities shall be provided for male and female patrons.

h. All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and/or showers shall be thoroughly cleaned after each use.

4. Non-transparent uniforms or garments covering the torso shall be worn by massagists at all times while attending patrons. Such uniforms or garments shall be of a washable material and shall be kept in a clean condition.

S. **License Required.** It shall be unlawful to operate or cause to be operated an adult oriented business in the Township without a valid license issued by the Zoning Administrator pursuant to the provisions of this section. The granting of site plan approval by the Planning Commission under this section does not confer a license on the applicant.

T. **License Application.**

1. All applicants for an adult oriented business license shall file an application for such license with the Zoning Administrator. Each individual applicant, partner of a partnership, member of a limited liability company, partner of a limited liability partnership, officer and director of a corporation and all managers shall be named in each application and each of them shall be photographed and fingerprinted by the Ottawa County Sheriff's Department.

2. The applicant shall be qualified according to the provisions of this section and the premises shall be inspected and found to be in compliance with the law by the Township Zoning Administrator.

3. If a person who wishes to operate an adult oriented business is an individual, he or she shall sign the application for a license as the applicant. If a corporation is listed as owner of an adult oriented business or as the entity which wishes to operate such a business, each individual having a 10 percent or greater interest in the corporation shall sign the application for a license as applicant, along with each officer and director of the corporation. If the applicant is a partnership, each partner shall sign the application. If the applicant is a limited liability company each member shall sign the application. If the applicant is a limited liability partnership each partner shall sign the application.

4. Applications for a license, whether original or renewal, must be made to the Zoning Administrator by the intended operator of the adult oriented business. Applications shall be submitted by hand delivery to the office of the Zoning Administrator during regular working hours. The intended operator shall be required to give the following information on the application:
 - a. If the applicant is an individual, the individual shall state his legal name and address and any aliases.
 - b. If the applicant is a partnership, the partnership shall state its complete name, and the names and addresses of all partners and whether the partnership is general or limited.
 - c. If the applicant is a limited liability company, the limited liability company shall state its complete name and the names and addresses of all of its members.
 - d. If the applicant is a limited liability partnership, the limited liability partnership shall state its complete name and the names and addresses of all of its partners.
 - e. If the applicant is a legal entity other than a partnership, limited liability company or limited liability partnership, the application shall state its complete name, the date and place of its organization, the names, addresses and capacity of all officers and directors of a corporation and of the chief executive officer and manager for any other legal entity, and the name of the resident agent and the address of the registered office for service of process.
 - f. The name under which the adult oriented business is to be operated and a general description of the services to be provided.
 - g. The telephone number of the adult oriented business.
 - h. The address and legal description of the real property on which the adult oriented business is to be located.
 - i. If the adult oriented business is in operation, the date on which the owner(s) acquired the adult oriented business for which the license is sought, and the date on which the adult oriented business began operations as an adult oriented business at the location for which the license is sought.
 - j. If the adult oriented business is not in operation, the expected start-up date (which shall be expressed in number of days from the date of the application). If the expected start-up date is to be more than ten days following the date of the application, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same is also required.

- k. Whether the applicant or any other individual identified in the application had a previous adult oriented business license under this section or other adult business ordinance from another city, village, township or county denied, suspended or revoked, including the name and location of the adult oriented or adult business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 - l. Whether the applicant or any other individuals identified in the application has been partner in a partnership, a member of a limited liability company or partnership or an officer, director, chief executive officer or manager of any other legal entity that is permitted under this section whose license has previously been denied, suspended or revoked, including the name and location of the adult oriented or adult business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 - m. Whether the applicant or any other individual identified in the application holds any other licenses under this section or other similar adult oriented or adult business ordinance from another city, village, township or county and, if so, the names and locations of such other permitted business.
 - n. The location of the proposed adult oriented business, including a legal description of the property, street address and telephone number(s), if any.
 - o. The applicants mailing address and residential address.
 - p. The applicant's driver license number, social security number and/or federally issued tax identification number.
5. The application shall be accompanied by the following:
- a. Payment of the application, investigation and license fees.
 - b. If the applicant is an individual, satisfactory proof that he or she is at least 18 years of age.
 - c. If the applicant is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto, and a current good standing certificate.
 - d. If the applicant is a corporation incorporated in another state, a certified copy of the certificate of authority to transact business in Michigan.
 - e. If the applicant is a partnership, a copy of the partnership agreement, together with all amendments thereto.
 - f. If the applicant is a Michigan limited partnership, a certified copy of the certificate of limited partnership, together with all amendments thereto.

- g. If the applicant is a limited partnership formed under the laws of another state, a certified copy of the Michigan certificate of registration.
 - h. If the applicant is a Michigan limited liability company, a certified copy of the articles of organization, together with all amendments thereto.
 - i. If the applicant is a limited liability company formed under the laws of another state, a certified copy of the Michigan certificate of authority.
 - j. If the applicant is a Michigan limited liability partnership, a certified copy of the registration of limited liability partnership, together with all amendments thereto.
 - k. If the applicant is a limited liability partnership formed under the laws of another state, a certified copy of the Michigan registration.
 - l. Documentation identifying the owner(s) of the real property on which the adult oriented business is to be situated.
 - m. If the person(s) identified as the owner(s) of the real property identified above is not also the owner(s) of the adult oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the adult oriented business to have or obtain the use and possession of the real property that is to be used for the purpose of the operation of the adult oriented business.
6. The application shall contain a statement under oath that:
- a. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct.
 - b. The applicant has read the provisions of this section.
7. A separate application and license shall be required for each adult oriented business.
- U. **Approval of License Application.** If a license application is complete and meets all of the requirements of this section, the Zoning Administrator shall issue a license to the applicant, according to the following schedule: (a) if the license application is received after site plan approval has already been granted by the Planning Commission for the adult oriented business, then the license shall be issued within 60 days after receipt of the application, or (b) if the license application is received before site plan approval has been granted by the Planning Commission for the adult oriented business, then the license shall be issued within 60 days after site plan approval has been granted.
- V. **Display of License.** The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult oriented

business. The license shall be posted in a conspicuous place at or near the entrance of the adult oriented business so that it may be easily read at any time.

- W. **Denial of License.** In the event that the Zoning Administrator determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within 60 days of the receipt of the application by the Zoning Administrator, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten days at any time before the notice is issued in order to make modifications necessary to comply with this section.
- X. **Appeal to Board of Zoning Appeals.** An applicant may appeal the decision of the Zoning Administrator denying an application or determining to revoke a license, to the Board of Zoning Appeals, by filing a written notice of appeal within 15 days after the applicant is given notice of the Zoning Administrator's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Zoning Administrator may submit a memorandum in response to the memorandum filed by the applicant on appeal. After reviewing the relevant information, the Board of Zoning Appeals shall vote to either uphold or overrule the Zoning Administrator's decision. Such vote shall be taken within 60 calendar days after the date on which the Board of Zoning Appeals receives the notice of appeal. However, the applicant shall be required to comply with the Zoning Administrator's decision during the pendency of the appeal.
- Y. **Investigation of Applicant.** Upon receipt of a properly completed application, together with all information required in connection therewith, fingerprints and photographs, and the payment of the application, investigation and license fee, the Zoning Administrator shall transmit the application to the Ottawa County Sheriff's Department for investigation of the background of each individual applicant, the partners of a partnership, the members of a limited liability company, the partners of a limited liability partnership, or the officers and directors of a corporation and manager of the proposed adult oriented business.
- Z. **Application Fee.** Each applicant shall pay an application fee at the time of filing an application for a license in an amount as established from time to time by resolution of the Township Board. The application fee shall include the cost of the investigation by the Ottawa County Sheriff's Department. The application fee shall be non-refundable.
- AA. **License Fee.** Each licensee issued a license pursuant to this section shall pay an annual license fee at the time of application for the license as herein provided. The annual license fee shall be established from time to time by resolution of the Township Board. The license fee shall be refunded if the license is not approved.
- BB. **License Renewal.** Any application for renewal of a license shall be filed with the Zoning Administrator not less than 45 days prior to the date of expiration. The Zoning Administrator may, for good cause shown, waive the requirement for timely filing of a renewal application.

CC. **Term of License.** All licenses issued pursuant to this section shall be for a term of one year. The term shall commence on January 1 of each year and terminate upon December 31 of the same year. Applications for a license filed at any other time during the year shall be treated as if they were filed January 1 of that year and shall terminate on December 31 of the same year, and no proration of fees shall be permitted.

DD. **Revocation of License.** The Zoning Administrator shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months. The Zoning Administrator shall also revoke a license if he or she determines that any of the following has occurred:

1. Any condition exists that would warrant disapproval of a license as set forth in this section;
2. A licensee, operator manager or employee has engaged or has allowed patrons or employees to engage in acts of misconduct on the licensed premises in violation of any Township ordinance, the laws of the State of Michigan or of the United States when the licensee, operator, manager or employee knew or should have known such acts were taking place; or
3. Repeated disturbances of public peace have occurred within the licensed adult oriented business or upon any parking areas, sidewalks, access ways or grounds of the licensed adult oriented business involving patrons, employees, or the licensee.

When the Zoning Administrator revokes a license, the revocation shall continue for one year, and the licensee shall not be issued an adult oriented license for one year from the date revocation became effective. If, subsequent to revocation, the Zoning Administrator finds that the basis for the revocation has been corrected or abated, a license may be reinstated if at least 90 days have elapsed since the date the revocation became effective.

EE. **Registration of Managers, Entertainers and Employees.**

1. No person shall work as a manager, entertainer or employee at an adult oriented business without being registered under this section.
2. All managers, entertainers and employees shall provide to the Township their legal name and any aliases, home address, telephone number, date of birth and satisfactory proof that they are 18 years of age or older, and any other necessary identifying information for the Township to conduct a criminal background check on the manager, entertainer or employee.
3. The registration fee shall be as established from time to time by resolution of the Township Board.
4. The owner or manager of an adult oriented business shall provide the Township Zoning Administrator with the names, any aliases, and dates of birth of all managers, entertainers and employees within five days of employment. This information will

be used to verify the information submitted by the manager, entertainer or employee, who must also register with the Township within five days of employment.

FF. **Exemptions from Enforcement.** It is a defense to prosecution under this section that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Michigan or a college, community college, or university supported entirely or partly by taxation; or
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college, or university supported entirely or partly by taxation.

GG. **Reporting of Violations.** Any owner, manager or employee shall immediately report to the Township Zoning Administrator and to the Ottawa County Sheriff's Office any violation of this section or any breach of the peace or unlawful or disorderly act, conduct or disturbance committed on the adult oriented business, including any parking area or adjoining area under the control or management of the owner, provided that the owner, manager or employee knew or should have known of such violation of law.

HH. **Definitions.** For the purposes of this section, the following words and terms shall be defined, as provided below:

1. **"Adult Book Store."** An establishment having more than an insubstantial or insignificant portion of its stock in trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein. An establishment may have other categories of items for sale which are not characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, but still be classified as an adult book store.
2. **"Adult Cabaret."** A nightclub, bar, restaurant, lounge or similar establishment, whether or not alcoholic beverages and/or food are served, which regularly features one or more of the following: (i) persons who appear nude or in a state of nudity or semi-nudity; or (ii) live or recorded performances which are characterized by an emphasis on matter depicting "specified anatomical areas" or "specified sexual activities," or which involve the exposure of "specified anatomical areas" or "specified sexual activities" as defined herein.
3. **"Adult Motion Picture Theater."** An establishment predominantly used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein.
4. **"Adult Novelty Store."** An establishment having more than an insubstantial or insignificant portion of its stock in trade in devices that simulate human genitals or devices designed for sexual stimulation. An establishment may have other categories

of items for sale which are not devices that simulate human genitals or devices designed for sexual stimulation, but still be classified as an adult novelty store.

5. **“Adult Oriented Business.”** Any of the uses defined in this subsection of this Ordinance as an adult bookstore, adult cabaret, adult motion picture theater, adult novelty store, adult video store, escort agency, massage parlor, and/or nude artist and photography studio, or any establishment which advertises or holds itself out to the public (on signs, publications, television, radio and/or other media forms) as being for the use or benefit solely of adults because of its products or services with an emphasis on, or associated with, specified anatomical areas and/or specified sexual activities, even if only a portion of the establishment is dedicated to one or more of the activities listed herein. This definition shall include the conversion of an existing business, whether or not an adult oriented business, to an adult oriented business.
6. **“Adult Video Store.”** An establishment having more than an insubstantial or insignificant portion of its stock in trade in video or digital material (in any form) for sale or rental which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein. An establishment may have other categories of items for sale which are not characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein, but still be classified as an adult video store.
7. **“Employee.”** Any person who works or performs in and/or for an adult oriented business, including the manager, regardless of whether such person is paid a salary, wage or other form of compensation.
8. **“Entertainer.”** Any person who performs any entertainment, exhibition or dance of any type within an adult oriented business, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition or dance.
9. **“Escort.”** A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie, to privately perform a striptease for another person, or to otherwise display specified sexual activities or specified anatomical areas.
10. **“Escort Agency.”** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
11. **“Manager.”** An employee, other than the licensee, who is employed by an adult oriented business to act as a manager or supervisor of employees or who is otherwise responsible for the operation of, or in charge of, an adult oriented business.
12. **“Massage.”** A method of treating or touching external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, adjusting or tapping with the hand or any instrument, electric, magnetic or otherwise, with or without supplementary aids.

13. **“Massage Parlor.”** Any establishment having a fixed place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops, beauty salons, beauty or health spas, or athletic facilities, in which massages are administered only to the scalp, the face, the arms, the neck, the shoulder, the back above the waist or the legs below the upper area of the thighs, by persons who are graduates of a recognized school and certified as a massage therapist by the American Massage Therapy Association or by the Associated Bodywork and Massage Professionals, and in good standing with such organization. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool or tennis court, or other educational, cultural, recreational or athletic facilities for the welfare of the residents of the area.
14. **“Nude Artist and Photography Studios.”** Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display “specified anatomical areas” as defined herein for artists and photographers for a fee or charge.
15. **“Operator.”** A person who owns, operates, directs, oversees, conducts, maintains, or effectively exerts management control or authority over an adult oriented business or its affairs, without regard to whether such person owns the premises in which the adult oriented business does business. An operator effectively exerts management control or authority when he or she actually participates, or is in a position to participate, in the management, direction or oversight of an adult oriented business or its affairs, whether or not such persons name appears on any public record filed with any government agency in connection with an adult oriented business or any parent company or affiliate.
16. **“Owner.”** A person owning, directly, indirectly or beneficially, any interest or part interest, however identified, in an adult oriented business.
17. **“Recognized School.”** Any school or educational institution which teaches the theory, method, profession, or work of massage; requires at least 500 class hours or other units of study before the student receives a diploma or certificate of graduation for having completed the course; and is either licensed to teach massage and to do business as a school or educational institution in the State of Michigan, or is approved by the American Massage Therapy Association.
18. **“Specified Anatomical Areas.”** Less than completely and opaquely covered: (a) human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and (b) human male genitals in a discernible turgid state, even if completely and opaquely covered.

19. **“Specified Sexual Activities.”** Any of the following: (a) human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; or (c) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(Ch. 11 amended in its entirety by Ord. 90-12.)

(Section 11.06 added by Ord. No. 91-12.)

**CHAPTER 11A
OVERLAY DISTRICT**

SECTION 11A.01 STATEMENT OF PURPOSE AND FINDINGS.

A. The Overlay District is intended to promote the following goals and objectives:

1. Accommodate a variety of uses permitted by the underlying zoning, but ensure that such uses are designed to achieve an attractive and economically sustainable environment.
2. Provide architectural and site design standards in order to promote harmonious development in the Township.
3. Promote public safety and efficient flow of vehicular traffic by minimizing conflicts from turning movements.
4. Ensure safe access by emergency vehicles.
5. Improve overall traffic safety by preserving roadway capacity, controlling the number and location of driveways and otherwise requiring coordinated access among adjacent lands, where possible.
6. Preserve woodlands, view sheds and other natural features within the Overlay.

B. The Township finds that the standards of the Overlay District are necessary to promote the health, safety and welfare of the Township and its residents, based on the following findings:

1. Design standards are important safety and aesthetic considerations for the Township's future image and the citizens' quality of life.
2. Architectural guidelines are necessary to ensure building design is consistent with the intended character of the area.
3. The combination of roadway design, traffic speeds, traffic volumes, traffic crashes and other characteristics determine the need for access standards. Public safety and efficient flow of vehicular traffic is promoted by limiting and controlling the number and location of driveways and requiring alternate means of access through shared driveways, service drives and access via cross streets.
4. Land divisions can affect the future use of adjacent parcels. Prior to any land divisions, it shall be demonstrated that the resultant parcels can meet the access standards herein.
5. Growth and development put an increased demand upon natural resources. The protection of natural resources is a matter of paramount public concern, as provided by Article IV, Section 52 of the State of Michigan Constitution and the Michigan Environmental Protection Act of 1970, MCL 324.1701, *et seq.*

SECTION 11A.02 APPLICABILITY.

- A. The Overlay District is an overlay district that applies to all lands zoned in the C-1, C-2 or I-1 Districts.
- B. Where the standards of this Overlay District are more restrictive than those of the C-1, C-2 or I-1 District (as applicable), as determined by the Zoning Administrator, the standards of the Overlay District shall apply.
- C. No land division shall be approved within the Overlay District unless it is demonstrated that compliance with the transportation access spacing standards specified herein will be satisfied.

SECTION 11A.03 ARCHITECTURAL STANDARDS.

- A. All proposed commercial and industrial development shall utilize quality architecture to ensure a building is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and traveling through the Township.
- B. The applicant and the applicant's design professionals are encouraged to submit or present architectural concepts and alternatives at a study session with the Planning Commission to receive comments on compliance with the guidelines prior to preparations of detailed design drawings. This can include sketches, photographs or other graphic materials.
- C. Building designs shall be reviewed by the Planning Commission as a part of site plan review under the following criteria:
 - 1. Buildings shall possess architectural variety.
 - 2. Buildings shall be consistent with the scale and proportion of existing structures in the same district.
 - 3. For commercial buildings, a minimum of 80 percent, and for industrial buildings, a minimum of 50 percent, of the exterior finish material of all building facades (excluding the roof) visible from the public street, private street, parking lot or adjacent residentially zoned land, exclusive of window areas, shall consist of facing brick, cut stone, split face block fluted block scored block, native, field stone, cast stone or wood with an opaque or semi-transparent stain, or bleaching oil. Any other block or building material not specifically listed may be reviewed and approved by the Planning Commission if the material is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and travelling through the Township.
 - 4. Exterior Insulation and Finishing Systems (EIFS) material shall not be the primary building material. The remaining maximum 20 percent of the façade may utilize other material for architectural detailing such as fiberglass reinforced concrete,

polymer plastic (fypon) or EIFS. The Planning Commission may permit other materials for facades not visible from a public street that are adequately screened from adjoining land uses.

5. Front building facades for commercial buildings shall provide a minimum 15 percent glass window but shall not exceed 80 percent glass. Calculations are exclusive of the roof area. This requirement does not apply to industrial buildings.
6. Building materials and colors shall be related to and harmonious with the surrounding area.
7. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape. Subtle colors shall be used for roofing material. Metal roofs shall only be permitted if compatible with the overall character of the building, and architectural elements are used to significantly reduce the roof mass when viewed from the street.
8. Buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, peaked rooflines or towers.
9. Building walls over 100 feet in length shall be broken up with items such as varying rooflines, varying building lines, recesses, projections, wall insets, arcades, windows, architectural accents, bands of complementary building materials and trees.
10. Building entrances shall utilize windows, canopies, and/or awnings, provide unity of scale, texture, and color and provide a sense of place.
11. Rooftop equipment shall be illustrated on the plans and shall be screened from view by parapet walls or other architectural elements that complement the overall building design.
12. Building rear facades shall be constructed to a finished quality comparable to the front façade where visible to a public street or residential district or use.
13. Any interior play place associated with a restaurant or lodging facility shall be designed in accordance with the above standards. This requirement does not apply to an industrial building.
14. Overhead canopies for gas stations or other uses shall be designed to be compatible with the architectural characteristics of the principal building such as peaked roofs, shingles, support structures that match or simulate materials of the principal building, lighting fixtures fully recessed into the canopy and in neutral colors.
15. Any neon lights must be shown and found to be complementary to the overall design of the building and approved as part of the site plan approval. Neon lights proposed to be used as an architectural detail shall be indicated on the building elevations and must be specifically found to be compatible with surrounding properties by the Planning Commission.

SECTION 11A.04 LANDSCAPING AND OVERALL SITE DESIGN.

Design elements shall comply with the applicable regulations in the ordinance, with the following additional requirements:

- A. Plants that have been identified as invasive or potentially invasive plants in West Michigan shall not be used for any landscaping purposes in the Overlay District.
- B. The overall design shall promote the impression of a natural landscape.
- C. Where practical, existing trees that are in good health and above three inches in caliper along the frontage and within the site shall be preserved.
- D. Landscaping shall be provided along walls to reduce the visual impact of building mass as viewed from the street.
- E. Retention, detention and the overall storm water system shall be designed to use “best management practices” and create the appearance of a natural pond or feature including gentle (5:1) or varying side slopes, irregular shapes, water tolerant grasses and seed mixes at the bottom of the pond/basin; appropriate flowers, shrubs and grasses along the banks based on environment (wet, dry, sedimentation basin v. pond) to improve views, filter runoff and enhance wildlife habitat.
- F. **Parking Lots.** The following landscaping requirements shall apply to parking lots:
 - 1. Parking lots, or any parts thereof, which are located in the front yard or which are adjacent to or visible from within 20 feet of any public right-of-way, shall have perimeter landscaping, between the parking lot and right-of-way, as follows:
 - a. The perimeter landscaping shall include a landscaped area measuring at least ten feet in width.
 - b. The landscaped area shall include at least one tree, measuring at least eight feet in height at the time of planting, for every 30 feet, or fraction thereof, of street frontage of the parking lot.
 - c. The landscaped area shall also include a continuous screen, measuring at least 36 inches in height above the street grade, consisting of a hedge, berm, brick wall, or combination thereof. The Zoning Administrator may determine the location of the screen so that it does not cause a traffic hazard, vision obstruction or other hazard to public safety.
 - 2. For parking lots of over 100 spaces or 30,000 square feet, the interior of the parking lot shall have one square foot of landscaped area for each 15 square feet of paved area. The following requirements shall apply to the interior landscaped areas:

- a. Traffic islands shall be located to improve traffic flow and views. Traffic islands shall have a minimum width of 18 feet and a minimum area of 150 square feet.
 - b. Details on traffic islands shall be provided on the site plan, including radii, dimensions, adjacent parking space depth, ground cover and any lighting or irrigation.
 - c. There shall be at least one deciduous tree for each 150 square feet, or fraction thereof, of interior landscaped area. Around each tree, there shall be an open land area of at least 75 square feet, with a minimum diameter of four feet at the tree trunk.
 - d. All interior landscaped areas of a parking lot shall be designed as “bio-retention” areas, to facilitate the treatment and ground absorption of storm water runoff using a combination of microbial soil process, infiltration, evaporation, and appropriate plantings. A sample of an acceptable “bio-retention” area may be viewed at <http://ohioline.osu.edu/cl-fact/1000.html>.
3. The Planning Commission may modify or waive some or all of the requirements of this subsection F, if it is determined that the goals and objectives of this chapter would be better served by alternative requirements for parking lot screening or interior parking lot landscaping.

G. Loading and Service Bay Doors.

1. In the C-1 or C-2 District, loading and service bay doors shall not face a public street. Such doors shall be in the rear of the site. Where this is not practical, location on the side may be permitted provided additional walls and landscaping are provided, and/or such areas are recessed, to minimize the negative visual impact.
 2. In the I-1 District, loading and service bay doors may face the street, but only if the Planning Commission determines, in its sole discretion, that sufficient interior maneuvering lanes, driveways or turnaround areas will be provided on the site to allow trucks and other vehicles to back up to the loading and/or service bay doors without entering any portion of a public street right-of-way.
- H. Generally, curbs must be used throughout the parking lot and paved areas. The Planning Commission may grant an exception upon finding that overall storm water disposition will be enhanced.
- I. If a monument sign is provided, the size of the sign may be increased 10 percent above that otherwise permitted if the sign base materials match the building, and foundation plantings are provided around the sign base.
- J. The outdoor display of items for sale, whether a few items or on a large-scale basis, such as car dealerships and farm equipment lots, shall be arranged in a neat and orderly fashion of

rows and columns. All outdoor display items shall be setback a minimum of 20 feet from the adjacent road right-of-way.

- K. The outdoor storage of other items, such as vehicles, equipment and extra supplies, shall be performed by placing the items in a fenced and screened area, to the side or rear of the principal building on the premises.
- L. Fences must be shown on the site plan, including details on materials and color. Fences shall be durable and decorative in nature. Chain link fences shall only be approved for a location not generally visible to the public or dwelling unit occupants. Any visible segments of fence will be vinyl coated with additional landscaping provided to screen the view.
- M. Paved pathways shall be provided along the frontage within the public right-of-way where the site abuts an existing pathway or is along a segment where a pathway within the public right-of-way is planned by the Township. The Planning Commission may also require internal safety paths during the site plan review process.

SECTION 11A.05 PARKING.

- A. Parking shall be provided according to Chapter 13, unless a parking study commissioned by the owner demonstrates to the Planning Commission that the required parking spaces are excessive for the particular use of the business.
- B. If a smaller area is approved by the Planning Commission, the remaining area needed to meet the normal parking space requirements shall be retained as open space and indicated as such on the site plan. The additional parking area shall be developed by the owner within six months of written notification from the Township. The Township may require posting of a performance bond to cover the estimated construction cost of the deferred parking with a refund within two years if the additional parking is not found to be necessary. A legal document shall be provided by the applicant and approved by the Township attorney that details the deferred parking agreement.

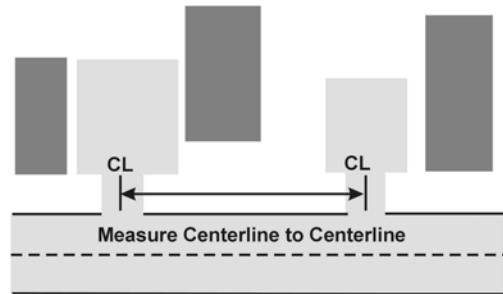
SECTION 11A.06 ACCESS STANDARDS.

Access points shall meet the following standards. These standards are based on considerable research in Michigan and nationally and were prepared concurrent with guidelines promoted by the MDOT.

- A. Each lot shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road.
- B. An additional driveway may be permitted by the Planning Commission upon finding the conditions 1 and 2, or 3 and 4, below exist. The additional driveway may be required to be along a side street or a shared access with an adjacent site.
 - 1. The site has a frontage of over 6,600 feet and the spacing standards between access points listed below are met, and

2. The additional access will not prevent adjacent lands from complying with the access spacing standards when such lands develop or redevelop in the future. OR:
3. A traffic impact study, as described in this chapter, demonstrates that the site will generate over 300 trips in a peak hour or 3,000 trips daily, or 400 and 4,000 respectively if the site has access to a traffic signal, and
4. The traffic study demonstrates the additional driveway will improve conditions for the motoring public and will not create negative impacts on through traffic flow.

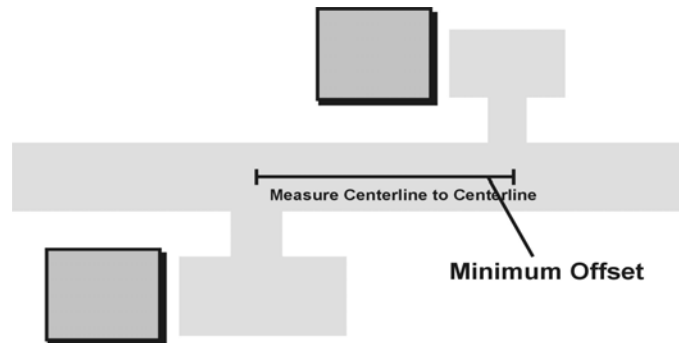
C. Access points shall provide the following spacing from the other access points along the same side of the public street (measured from centerline to centerline as shown on the figure), based on the posted speed along the public street segment.



Minimum Driveway Spacing Measurement

<u>Posted Speed Limit</u>	<u>Roadway*</u>
35 mph or less	150 ft.
40 mph	185 ft.
45 mph	230 ft.
50 mph	275 ft.
55 mph	350 ft.

(*unless greater spacing is required by OCRC or required to meet standards herein)



Minimum Offset Spacing

- D. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.
- E. Access points shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generate less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist.

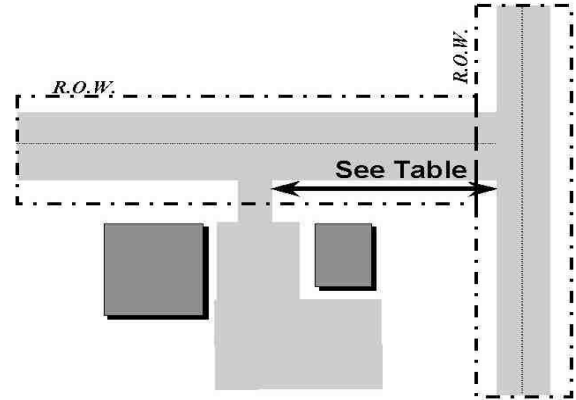
- F. Minimum spacing of access points from intersections shall be in accordance with the table below (measured from pavement edge as shown on the figure):

Signalized locations: *

Along public streets 200 ft.

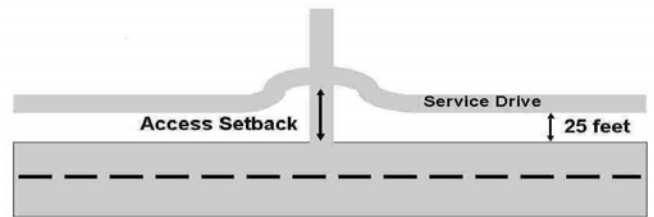
Unsignalized locations:

Intersections 150 ft



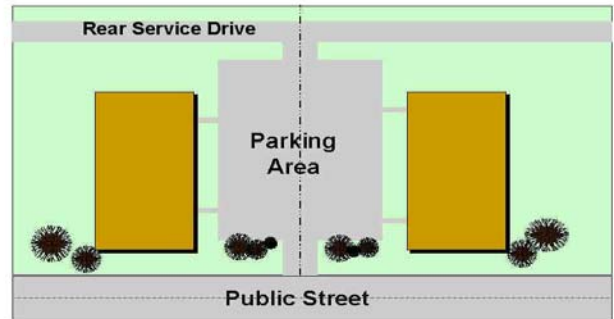
Driving Spacing from Intersections

(*Spacing shown for signalized intersections shall also be applied at intersections where OCRC indicates spacing and approach volumes may warrant a signal in the future.)



Frontage Road Minimum Setbacks

- G. Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.



Rear Service Drive Design

Frontage roads or service drives shall be constructed in accordance with the following standards:

1. Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of 25 feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum 60 feet of throat depth provided at the access point.
2. The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This may require use of aerial photographs, property line maps, topographic information and other supporting documentation.

3. In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a financial performance guarantee.
- H. Driveways shall be located to provide safe sight distance, as determined by the applicable road agency.
- I. No driveway shall interfere with municipal facilities such as street light or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating such driveways shall be at the expense of the abutting property owner.

SECTION 11A.07 TRAFFIC IMPACT ASSESSMENT OR STUDY.

- A. A traffic impact study shall be required for uses that are expected to generate one hundred or more peak hour directional trips. The estimated generated traffic volumes shall be based on a similar type and size of land use listed in the Institute of Transportation Engineers (ITE) publication "Trip Generation" (current edition).
- B. OCRC may also require a Traffic Impact Assessment or Study based on the type and size of the land use proposed. OCRC shall be contacted to determine if a Traffic Impact Assessment or Study is required.
- C. If a Traffic Impact Assessment or Study is required, the applicant shall submit a copy with the application for site plan review. A revised Traffic Impact Assessment or Study may be required as the scope and details of the site plan change.
- D. The cost of the Traffic Impact Assessment or Study and review shall be borne by the applicant.
- E. The requirement for a Traffic Impact Assessment or Study may be waived or modified by OCRC.

SECTION 11A.08 C-1 AND C-2 DISTRICT REGULATIONS.

On lands for which the underlying zoning is C-1 or C-2, no building or structure nor any enlargement thereof shall be hereafter erected in the Overlay District, except in conformance with the following yard and screening requirements:

- A. **Front Yard.** Every lot or premises upon which a commercial building is hereafter erected shall have a front yard of not less than 50 feet in depth.

B. Side Yard.

1. Where the side lot abuts the side of a lot in a residential or agricultural zoning district, the side yard shall not be less than 25 feet.
2. There shall be a side yard of not less than 40 feet on the street side of a corner lot.
3. No side yard shall be required when directly abutting other commercial uses or land in a commercial zoning district provided that unobstructed access to the rear of the building is maintained for emergency vehicles.

C. Rear Yard.

1. Where the rear of a lot in a commercial zoning district abuts a lot in a residential or agricultural zoning district there shall be a rear yard of not less than 25 feet.
2. In all other cases there shall be a rear yard of not less than 15 feet in depth.

D. Height. No building or structure shall exceed 35 feet of in height.

E. Screening. Side yards and rear yards adjoining any lot in a residential or agricultural zoning district shall be screened, as follows:

1. By a compact hedge of deciduous or evergreen trees which reach a minimum of five feet in height and ten feet in width after one growing season, or
2. A solid wall or tight board fence six feet in height.

SECTION 11A.09 I-1 DISTRICT REGULATIONS.

On lands for which the underlying zoning is I-1, no building or structure nor any enlargement thereof shall be hereafter erected in the Overlay District except in conformance with the standards of Sections 12.03 and 12.04.

(Ch. 11A adopted by Ord. No. 90-12.)

CHAPTER 12
I-1 INDUSTRIAL DISTRICT

SECTION 12.01 PURPOSE.

This zone is intended to permit light industrial uses which are not offensive, enervating or debilitating to the surrounding property through the effects of noise, smoke, odor, dust, dirt, noxious gases, vibration, glare and heat, fire hazards, industrial wastes or traffic. In those instances where there is a doubt regarding the effect of the operation, the prospective operator shall demonstrate, through the use of qualified technical persons and acceptable testing techniques, that protective devices shall be utilized which will categorically assure the control of the questioned factor. All buildings, and other activities shall conform to all applicable regulations and requirements. No operations shall directly discharge waste of any kind into any river, stream, or lake. All methods of sewage disposal and industrial waste treatment and disposal shall be approved by the appropriate agencies.

SECTION 12.02 PERMITTED USES.

Land, buildings and structures in the I-1 Zoning District may be used for the following purposes:

- A. Light manufacturing, compounding, processing, packing, treatment and assembly of goods, articles and products from previously-prepared materials only.
- B. Motor vehicle repair shops.
- C. Contractor yards.
- D. Crating and packing service.
- E. Printing shops.
- F. Sign painting and servicing shops.
- G. Public utility service or storage yard.
- H. Warehouses and storage.
- I. Wholesale sales.
- J. Other similar light industrial uses that involve the compounding, assembly or treatment of goods, articles and products, but which do not involve heavy manufacturing or the processing of raw materials.
- K. Bottling plants and dairies.
- L. Machine shops and tool and die shops.
- M. Accessory buildings and other accessory uses that are customarily incidental to the permitted uses listed above.

- N. Signs as regulated under Section 4.16.
- O. Off-street parking and loading as regulated by Chapter 13.
- P. Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs). **(Added by Ord. No. 09-76.)**
- Q. Medium Wind Energy Turbines (MWETs), but only if authorized by the Township Board as a special land use pursuant to Chapter 21 of this Ordinance. **(Added by Ord. No. 09-76; amended by Ord. No. 81-2010.)**

SECTION 12.03 DISTRICT REGULATIONS.

Buildings and structures shall not be erected or enlarged unless the following requirements are satisfied:

- A. **Minimum Lot Area.** One acre.
- B. **Minimum Lot Width.** Two hundred feet.
- C. **Minimum Required Building Setbacks.**
 - 1. **Front Yard.** There shall be a minimum front yard setback of 70 feet.
 - 2. **Side Yards.** There shall be two side yards, and each side yard shall have a minimum depth of 30 feet; provided, however, that where a lot in the I-1 District abuts lands zoned in the R-1, R-2, R-5 or R-6 District, a minimum side yard setback of at least 75 feet shall be maintained.
 - 3. **Rear Yard.** There shall be a minimum rear yard setback of 50 feet.
- D. **Maximum Building Height:** Thirty five feet, provided, however, that such maximum building height may be exceeded if approved by the Planning Commission.

SECTION 12.04 SITE DEVELOPMENT REQUIREMENTS.

The following site development requirements shall be complied with:

- A. Side yards and rear yards adjoining any lot in a residential or agricultural zoning district shall be screened, as follows:
 - 1. By a compact hedge of deciduous or evergreen trees which reach a minimum of five feet in height and ten feet in width after one growing season, or
 - 2. A solid wall or tight board fence six feet in height. **(Section 12.04.A amended by Ord. No. 90-12.)**

- B. Ingress to and egress from any lot or parcel of land shall be designed and used so as to maximize pedestrian safety, ease of traffic flow and control and ready access by emergency vehicles and personnel.
- C. Off-street parking and loading areas shall be designed and used so as to avoid significant adverse impact on adjacent and nearby lands.
- D. Uses shall be designed and operated so as to maximize motor vehicle and pedestrian safety and convenience, to promote ease of traffic flow and to minimize the effects, if any, of smoke, noise, dust, vibration, odor or other serious adverse effects on adjacent or nearby lands.
- E. Fencing shall be established and maintained, if required by the Planning Commission.
- F. No use, activity or storage may be conducted outside of a completely enclosed building unless conducted in an area enclosed on all sides by an opaque screening structure approved by the Planning Commission. Where such outdoor storage is permitted by the Planning Commission, no goods, materials or objects shall be stacked higher than the top of the fence or screening structure.
- G. No use, activity or storage shall generate noise, smoke, dust, vibration or any other like nuisance which constitutes a serious adverse effect upon adjacent or nearby properties.
- H. All development in the I-1 District shall conform with the applicable requirements of the Overlay District. **(Section 12.04.H added by Ord. No. 90-12.)**

**CHAPTER 13
PARKING AND LOADING SPACES**

SECTION 13.01 GENERAL.

In all zoning districts, there shall be provided, before any building or structure is occupied, or is enlarged or increased in capacity, off-street parking spaces for motor vehicles as follows:

Use	Minimum parking spaces required
A. Dwelling	Two for each dwelling unit
B. Lodging, rooming and boarding houses	Two for each three guest rooms or each six beds for guests, whichever amount is greater
C. Private clubs and lodges	One for each five active members and one (for each employee with a minimum of one for each 100 square feet of floor area)
D. Hospitals, institutions, and clinics	Two for each patient bed
E. Sanitariums or convalescent or nursing homes	One for each two beds
F. Homes for senior citizens	One for each three beds
G. Hotels	One for each two guest rooms
H. Motels and tourist homes	One for each sleeping room
I. Theaters, auditoriums, stadiums	One for each four seats
J. Studios, skating rinks, assembly halls and convention halls without fixed seats	Two for each 100 square feet of floor area open to the public
K. Bowling alleys	Eight for each alley
L. Private elementary and junior high schools	Two for each three employees normally engaged in or about the buildings and grounds plus one for each eight auditorium seats
M. Senior high schools and institutions of higher learning	Two for each three employees engaged in or about the buildings and grounds and one additional for each four students enrolled in the institution

N.	Churches	One for each four seats in the main worship unit
O.	Community centers	One for each 100 square feet of assembly floor area
P.	Libraries, museums and post offices	One for each hundred square feet of floor area
Q.	Restaurants, grills, dining rooms, dairy bars, and soda fountains	One for each two seats
R.	Professional offices and buildings	One for each two hundred square feet of floor area
S.	Medical doctors' offices or dental clinics	Eight for each doctor plus one for each employee
T.	Banks, business offices, and public buildings not specifically mentioned elsewhere	One for each 150 square feet of floor area
U.	Mortuaries and funeral homes	One for each 50 square feet of floor area used for services
V.	Taverns and bars	Two for each three seats but no less than 40 spaces in any event
W.	Marinas	Two for each slip or mooring
X.	Libraries, museums and art galleries	One for each four seats
Y.	Civic or social clubs	One for each 50 square feet of assembly room
Z.	Public meeting halls	Two for each 100 square feet of public area
AA.	"Drive-in" establishments	Eight for each 125 square feet of ground floor area
BB.	Use groupings	One for each 100 square feet of floor area in the basement on the first floor used for retail sales and one for each 400 square feet of floor area on the second floor used for retail sales and one for each 600 square feet of floor area on the third floor used for retail sales, and one for each 800 square feet of floor area on any additional floors used for retail sales
	(i) Retail stores, supermarkets, department stores, billiard or pool rooms, personal, service shops, general business	

(ii) Business offices and/or research laboratories and/or similar uses	One for each employee on the maximum shift or peak employment period
(iii) Other uses not specifically mentioned	In the case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for a use which is so mentioned and to which said use is similar in terms of parking demand shall apply
(iv) Mixed uses in the same building	In the case of mixed uses in the same building the amount of parking space for each use specified shall be provided and the space for one use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools permitted herein
CC. Agricultural tourism and seasonal agriculturally related uses	Two parking spaces for every 200 square feet of interior retail space; and two parking spaces for every 1,000 square feet of outdoor activities

(Subsection CC added by Ord. No. 85-11 [adopted as subsection BB]; editorial correction made at time of codification.)

SECTION 13.02 JOINT USE OF PARKING FACILITIES.

Provision of common parking facilities for several uses in the same vicinity is encouraged. Where multiple principal uses utilizing common parking facilities exist in the same vicinity, the total space requirement is the sum of the minimum individual requirements.

Where a principal use and an accessory use exist on the same property, the total space requirement is the sum of the minimum individual requirements for the principal and accessory uses unless the Planning Commission authorizes a smaller number of parking spaces. In granting such authorization, the Planning Commission shall consider the following standards:

- A. Whether the proposed number of parking spaces is sufficient to meet the need for parking facilities of both the principal and accessory uses. The number of parking spaces authorized by the Planning Commission shall not be less than the minimum number required for the principal use.
- B. The reason for the request that a smaller number of parking spaces than that required be authorized.
- C. The effect on adjoining property and the surrounding neighborhood.

SECTION 13.03 LOCATION OF FACILITIES.

Off-street parking facilities shall be located as hereafter specified; when a distance is specified, it shall be the walking distance measured from the nearest point of the parking facility to the nearest normal entrance to the building or use that such facility is required to serve.

- A. For all residential buildings and for all non-residential buildings and uses in residential zoning districts, required parking shall be provided on the lot with the building, or use it is required to serve.
- B. For commercial and all non-residential buildings and uses in commercial zoning district, required parking shall be provided within 300 feet.

SECTION 13.04 SIZE OF PARKING SPACE.

Each off-street parking space shall have an area of not less than 200 square feet (exclusive of access or aisles) and shall be a minimum of ten feet in width.

SECTION 13.05 REQUIREMENTS FOR PARKING AREAS.

Every parcel of land hereafter established as an off-street public or private parking area for more than five vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or services lot, and accessory parking areas for multiple dwellings, businesses, public assembly, and institutions, shall be developed and maintained in accordance with the following requirements:

- A. The parking lot and its driveways shall be effectively screened on each side which adjoins or faces premises situated in any R or AG-1 Zoning District by a fence of acceptable design, wall, or compact evergreen hedge. There shall also be provided on each side and rear which adjoins any R or AG-1 Zoning District, a greenbelt ten feet in width landscaped with lawn and low shrubbery clumps backed up by a solid planting of evergreen trees at least five feet in height and five feet wide after one growing season, or other suitable screening device. **(Amended by Ord. No. 99-15, eff. June 28, 2015.)**
- B. The parking lot and its driveways shall be:
 - 1. Designed to provide adequate drainage.
 - 2. Surfaced with concrete or asphalt pavement.
 - 3. Maintained in good condition, free of dust, trash, and debris.
- C. The parking lot and its driveways shall not be used for repair, dismantling, or servicing of any vehicle.
- D. The parking lot shall be provided with entrances and exits so located as to minimize traffic congestion.

- E. The parking lot shall be provided with wheel or bumper guards so located that no part of the parked vehicle shall extend beyond the parking area.
- F. Lighting facilities shall be so arranged as to reflect the light away from adjoining properties.
- G. No part of any public or private parking area, regardless of the number of spaces provided, shall be closer than ten feet to any street right-of-way line.
- H. Parking Requirements for Agricultural Tourism and Seasonal Agriculturally Related Uses.
 - 1. For agricultural tourism and seasonal agriculturally related uses permitted by right in the AG-1 District, parking facilities may be located on a grass or gravel area. All parking areas shall be defined by either gravel, cut lawn, sand or other visible marking.
 - 2. For agricultural tourism and seasonal agriculturally related uses permitted only by special land use permit in the AG-1 District, parking may be either gravel or paved, as determined by the Planning Commission and Township Board when reviewing the special land use application, based on applicant's estimate for seasonal parking and the intensity of the use. Overflow parking areas may be required to accommodate seasonal peak demand.
 - 3. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.
 - 4. Unpaved parking areas shall not be located in required side and rear yard setback areas. Paved parking areas shall meet all design, landscape screening and setback requirements set forth in this Ordinance. **(Subsection H added by Ord. No. 85-11.)**

SECTION 13.06 OFF-STREET LOADING SPACES.

For every building or addition to an existing building hereafter erected to be occupied by storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, laundry, mortuary, dry cleaning, or other similar uses requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building or addition.

- A. An area or means adequate for maneuvering and ingress and egress for delivery vehicles.
- B. Off-street loading spaces in relation to the floor areas as follows:
 - 1. Up to 20,000 square feet - one space.
 - 2. Twenty thousand or more but less than 50,000 square feet - two spaces.
 - 3. One additional space for each additional 50,000 square feet or fraction thereof.

Each loading space shall be at least ten feet in width, 35 feet in length and 14 feet in height. No such space shall be located closer than 50 feet to any lot in any R Zoning District.

CHAPTER 14
NONCONFORMING USES, BUILDINGS OR STRUCTURES

SECTION 14.01 CONTINUANCE OF NONCONFORMING USES, BUILDINGS OR STRUCTURES.

Except where specifically provided to the contrary, and subject to the provisions of this chapter, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or any amendment thereto. In addition, except where specifically provided to the contrary and subject to the provisions of this chapter, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

SECTION 14.02 EXPANSION.

Structures, buildings or uses nonconforming by reason of height, area and/or parking and loading space provisions only may be extended, enlarged, altered, remodeled, or modernized provided:

- A. There is compliance with all height, area and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling, or modernization.
- B. The Zoning Administrator shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure. **(Amended by Ord. No. 81-2010.)**

Any use of a building or structure which is nonconforming by reason of parking or loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.

No nonconforming use of any building or structure or of any land or premises which is nonconforming for reasons other than height, area, and/or parking and loading space provisions shall hereafter be extended or enlarged:

- A. Unless all extensions or enlargements do not exceed 50 percent of the area of the original nonconforming use.
- B. Whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned or with the use of such other properties in compliance with the provisions of this Ordinance.

SECTION 14.03 RESTORATION AND REPAIR.

- A. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life.
- B. Should any nonconforming building or structure (other than a nonconforming dwelling or a nonconforming residential accessory building) be destroyed by any casualty, whether in whole or in part, such nonconforming building or structure may nevertheless be restored, rebuilt, or otherwise reestablished if the cost thereof does not exceed one-half of the value of the nonconforming building or structure after the rebuilding, restoration or reestablishment is complete. In the event a nonconforming building or structure covered by this provision is destroyed by any casualty, whether in whole or in part, and the cost of rebuilding, restoration or reestablishment exceeds one-half of the value of the building or structure after rebuilding, restoration or reestablishment is complete, then such rebuilding, restoration or reestablishment shall be permitted only if authorized by the Township Board as a special land use. In considering such authorization, the following standards shall be considered, in addition to the criteria under Chapter 21 of this Ordinance: **(Amended by Ord. No. 81-2010.)**
 - 1. Whether such rebuilding, restoration or reestablishment would substantially extend the probable duration of the nonconforming use.
 - 2. Whether or not the land previously occupied by the nonconforming use can be advantageously used for use permitted in the applicable zoning district.
- C. Should any nonconforming dwelling or nonconforming residential accessory building be destroyed by any casualty, whether in whole or in part, such nonconforming dwelling or such nonconforming residential accessory building may nevertheless be restored, rebuilt or otherwise reestablished if the resulting dwelling or the resulting residential accessory building is no more nonconforming than was the dwelling or the residential accessory building that was destroyed or partially destroyed; provided, however, that any such restoration, rebuilding or reestablishing of the nonconforming dwelling or the nonconforming residential accessory building must be substantially completed within two years of the date of the destruction or partial destruction of the dwelling or the accessory building. In the event that such restoration, rebuilding or reestablishing of the dwelling or the accessory building is not substantially completed within such period of time, then such dwelling or accessory building shall not be in compliance with this Ordinance and shall be removed.
- D. Notwithstanding any provision in this chapter to the contrary, a dwelling located on a lot or parcel in the AG-1 District, which existed and was complete at the time of the effective date of the amendatory ordinance adding this provision, and which is nonconforming because it has not been approved as a special land use pursuant to Section 21.08, may be repaired, improved, modernized or expanded, provided that such activities do not create a new nonconformity or increase any existing nonconformity of the dwelling. In addition, such a dwelling may be replaced by a new single-family dwelling on the same lot or parcel

following Planning Commission review of the site plan for the new dwelling pursuant to Chapter 16A of this Ordinance, provided that the new dwelling fully complies with the dimensional requirements of the AG-1 District. The Planning Commission may require that the new dwelling also comply with the standards of Section 21.08 of this Ordinance, if compliance with these standards would be reasonably practicable. **(Amended by Ord. No. 08-72.)**

SECTION 14.04 DISCONTINUANCE. (Section 14.04 mended by Ord. No. 08-72.)

- A. The nonconforming use of a building or structure or of any land or premises shall not be:
 - 1. Reestablished after discontinuance, abandonment, vacancy, lack of operation or otherwise for a period of nine (9) months.
 - 2. Reestablished after it has been changed to a conforming use.

- B. Notwithstanding subsection A, the Township Board may allow, as a special land use, the reestablishment of the use of an abandoned dwelling located on a lot or parcel in the AG-1 District, which had previously been lawfully nonconforming because it had not been approved as a special land use under Section 21.08. In considering the special land use for reestablishment, the following criteria shall be considered: **(Amended by Ord. No. 81-2010.)**
 - 1. Whether the dwelling complies with the district regulations and minimum floor area requirements of the AG-1 District and, if not, the extent of the dwelling's nonconformity with those standards.
 - 2. The physical condition of the building and the feasibility of its repair, taking into account the standards listed in Section 4.21 of this Ordinance.
 - 3. Whether reestablished use of the dwelling would be harmonious with the use of adjacent and nearby properties.
 - 4. Whether the reestablishment of the use of the dwelling would result in adverse conflicts between adjacent and/or nearby agricultural uses, taking into account such factors as, but not limited to, fluid runoff; soil, water and air pollution; odors; pesticide and fertilizer application; manure storage and handling; water supply; and other potential adverse effects.
 - 5. Whether the lot or parcel on which the dwelling is located may feasibly be joined with adjacent lands that are used for agricultural production and used in combination therewith for expanded agricultural production.

SECTION 14.05 BUILDING OR STRUCTURE UNDER CONSTRUCTION ON EFFECTIVE DATE OF ORDINANCE.

Any building or structure shall be considered existing and lawful and for purposes of Section 14.01, to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a

building permit has been obtained therefor, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

SECTION 14.06 CHANGING OF USES.

A nonconforming use of any building, structure or land shall not be changed to any other nonconforming use unless authorized by the Township Board as a special use. In considering such authorization, the following standards shall be considered: **(Amended by Ord. No. 81-2010.)**

- A. Whether the proposed use is equally or more appropriate than the present nonconforming use to the zoning district in which the building, structure, or land is located. No change to a less appropriate use may be authorized by the Township Board. **(Amended by Ord. No. 81-2010.)**
- B. Whether the proposed use will substantially extend the probable duration of the nonconforming structure, building, or use.
- C. Whether the proposed use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this Ordinance.
- D. The effect of the proposed use on adjoining lands and the surrounding neighborhood.

(Text for Section 14.06 appears as amended by Ord. No. 29A-93.)

**CHAPTER 15
ADMINISTRATION AND ENFORCEMENT**

SECTION 15.01 ZONING ADMINISTRATION.

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator. **(Amended by Ord. No. 81-2010.)**

SECTION 15.02 ZONING ADMINISTRATOR.

The Zoning Administrator shall be appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as the Township Board shall determine. To be eligible for appointment to the post of Zoning Administrator, the applicant must be:

- A. Generally informed of the provisions of this Ordinance.
- B. Have a general knowledge of the building arts and trades.
- C. Be in good health and physically capable of fulfilling the duties of the Zoning Administrator.

Said applicant shall have no interest whatsoever, directly or indirectly, in the sale or manufacture of any material, process, facility, or device entering into or used in connection with building construction. **(Section 15.02 amended by Ord. No. 81-2010.)**

SECTION 15.03 PERMITS.

- A. **Permit Required.** No building or structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except wholly interior alterations or repairs at a cost of \$300.00 or less, unless a permit therefor has been issued by the Zoning Administrator. An application for a permit shall be in writing and upon duplicate printed forms furnished by the Township. A permit issued by the Zoning Administrator is non-transferable and must be obtained before any work, excavations, erection, alteration, or movement is commenced. Satisfactory evidence of ownership of the lot or premises may be furnished upon request. If the application is approved, the Zoning Administrator shall so mark both copies of the application over his signature and file one copy with the Township Clerk and return the other copy to the applicant. The Zoning Administrator shall also provide the applicant with a construction card signed by the Zoning Administrator stating the extent of the work authorized. This card shall be attached to and remain on the lot or premises during the progress of the work authorized. **(Amended by Ord. No. 81-2010.)**
- B. **Contents of Application.** Each application shall include such reasonable information as may be requested by the Zoning Administrator in order to determine compliance with the terms and provisions of this Ordinance and shall include, as a minimum, the following information: **(Amended by Ord. No. 81-2010.)**
 - 1. The location and actual dimensions of the lot or premises to which the permit is to apply.

2. The kind of buildings or structures to which the permit is to apply.
3. The width of all abutting streets.
4. The area, size and location of all buildings or structures to which the permit is to apply.
5. The type of use to be made of the building or structures to which the permit is to apply.
6. The use of buildings or structures on adjoining lands.
7. The estimated cost of the building or structure.

The Zoning Administrator, in his discretion, may waive the inclusion of any of the foregoing information in an application if he shall determine that such information is not reasonably necessary for him to determine compliance with the terms and provisions of the ordinance. **(Amended by Ord. No. 81-2010.)**

- C. **Accessory Buildings or Structures.** Accessory buildings or structures, when erected, moved, placed, reconstructed, extended, enlarged, or altered, at the same time as the principal building on the same lot or premises and when shown on the application for the permit for the principal building, shall not require the issuance of a separate permit. A separate permit shall be required if any accessory building or structure is erected, moved, placed, reconstructed, extended, enlarged, or altered separately or at a different time than the principal building on the same lot or premises.
- D. **Special Land Uses.** When the terms and provisions of this Ordinance require authorization by the Township Board as a special use, and such authorization is given, then the Township Clerk shall mark the application as approved, and shall provide written notification of the approval to the Zoning Administrator. **(Amended by Ord. No. 81-2010.)**

(Text appears as amended by Ord. No. 29A 93.)

- E. **Issuance of Permit.** Within ten days after the receipt of any application, the Zoning Administrator shall either: **(Amended by Ord. No. 81-2010.)**
1. Issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance, or
 2. Deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing.

In each case the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his agent.

- F. **Expiration/Renewal of Permits.** A permit for any building or structure shall automatically expire unless the work authorized by such permit is substantially commenced within 180

days after its issuance. Automatic expiration shall also occur if the work authorized by such permit is suspended or abandoned for a period of 180 consecutive days occurring any time after the work is originally commenced. The Zoning Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. **(Amended by Ord. No. 81-2010.)**

- G. **Cancellation of Permits.** The Zoning Administrator shall have the power to revoke and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance or in the event of any false statements or misrepresentations in the application for the permit. Notice of such cancellation and revocation shall be securely posted on the construction, such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit. **(Amended by Ord. No. 81-2010.)**
- H. **Fees.** For each permit issued, the fee schedule shall be established by the Township Board.

SECTION 15.04 INSPECTION OF BUILDINGS AND STRUCTURES.

- A. As work progresses under a permit, the holder thereof or his authorized agent shall cause the Zoning Administrator to be notified at the following stages of construction: **(Amended by Ord. No. 81-2010.)**
 - 1. Upon completion of the footing and foundation walls.
 - 2. Upon completion of the rough frame of the building or structure and upon completion of the electrical, mechanical and plumbing systems. **(Amended by Ord. No. 18-2010.)**
 - 3. Upon total completion of the work authorized by the permit and before occupancy or use.
- B. Should the permit holder fail to comply with all of the terms and provisions of this Ordinance at any stage of construction, the building or code official is authorized to revoke and cancel the permit and cause notice of such cancellation and revocation to be securely posted on the construction, such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit. No further work shall be undertaken or permitted upon such construction until a new permit is issued for such work. **(Amended by Ord. No. 81-2010.)**

SECTION 15.05 CERTIFICATION OF COMPLIANCE.

No building or structure which is erected, moved, placed, reconstructed, extended, enlarged or altered shall be used in whole or in part until the owner thereof shall have been issued a certificate by the Zoning Administrator affirming that such building or structure conforms in all respects to the provisions of this Ordinance. Such certificate shall be issued after the work is complete and the final inspection has been made. **(Amended by Ord. No. 81-2010.)**

SECTION 15.06 FEES.

All applicants for permits, special land use, rezoning, site condominiums, variances, site plan approval, and other land use review or approval required by this Ordinance, shall pay the fee and any escrow deposit established by resolution of the Township Board from time to time. The Planning Commission, Zoning Board of Appeals and Township Board shall not consider any application for land use approval for which the required fee has not been paid, or any escrow account maintained at the required level. **(Amended by Ord. No. 81-2010.)**

SECTION 15.07 PERFORMANCE GUARANTEES.

- A. The Planning Commission, Zoning Board of Appeals, and Township Board are empowered to require, as a condition of any land use approval, that the applicant give financial security to ensure that all roads, landscaping, public utilities, and other improvements associated with a development or other land use are made in full compliance with all Township ordinances and conditions placed upon such land use approval. The amount of such security may be up to the full amount of the estimated cost of the improvements.
- B. Security shall be in the form of a cashier's check payable to the Township, or by submission of an executed performance bond or irrevocable letter of credit in favor of the Township. Any performance bond or letter of credit shall, at a minimum: (i) be issued by a financial institution or insurer satisfactory to the Township; (ii) continue until the project is completed; (iii) and allow full or partial draws upon certification by the Township Zoning Administrator that improvements have not been completed as required.
- C. The security shall be used by the Township only for the purpose of completing improvements if an applicant fails to do so, including payment of engineering, legal, and other professional services associated with such default. In no event shall the Township be under any obligation to complete improvements on behalf of an applicant.
- D. Upon certification by the Zoning Administrator that all improvements have been fully completed, the Zoning Administrator shall authorize the return of any cash deposit, or give notice that security may be terminated. A partial reduction in the amount of security may be permitted in the Zoning Administrator's reasonable discretion as improvements are completed, provided that the Zoning Administrator may retain up to 125 percent of the estimated cost of remaining improvements.
- E. Upon premature termination or expiration of a performance bond or letter of credit posted as security, all work on a development or other land use shall be stopped until appropriate security is reestablished to the satisfaction of the Township.

SECTION 15.08 PUBLICATION AND DELIVERY OF NOTICE OF PUBLIC HEARING. (Section 15.08 added by Ord. No. 06-65; amended by Ord. No. 09-75.)

Except as stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered in accordance with the requirements of this section.

- A. The notice shall be published once, at least 15 days before the date of the public hearing, in a newspaper of general circulation in the Township.
- B. For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel of land; for all planned unit development and special land use applications; and for other zoning applications as to which a public hearing is required, a notice of public hearing shall be personally delivered or shall be mailed by first-class U.S. mail to the following persons, at least 15 days before the date of the public hearing:

- 1. The applicant, and also the owner of the subject property, but only if the owner is different from the applicant.
- 2. All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application;
- 3. One occupant of each dwelling unit in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property; and
- 4. The owner or manager of a building containing more than four dwelling units and which is located within 300-feet of the subject property. The manager shall be requested in writing to post the notice at the primary entrance of the building, but failure of such posting shall not constitute lack of notice to the owners or occupants of such dwelling units.

If the above-described 300-foot radius extends outside the Township's boundaries, the notice shall nevertheless be provided outside of the Township's boundaries, within the 300-foot radius, to all persons stated above in this subsection.

- C. The notice of public hearing shall include the following information:

- 1. A description of the application or request.
- 2. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
- 3. The date and time when the application or request will be considered, and the location of the public hearing.
- 4. The location or address where written comments concerning the application or request will be received, and the period of time within which such written comments may be submitted.

**CHAPTER 16
ZONING BOARD OF APPEALS**

SECTION 16.01 CREATION OF ZONING BOARD OF APPEALS.

The Zoning Board of Appeals (the “Board of Appeals”) is hereby created. The Board of Appeals shall have the authority and responsibilities conferred by law and this Ordinance.

SECTION 16.02 MEMBERSHIP, APPOINTMENT AND TERM OF OFFICE.

- A. The Board of Appeals shall consist of five members. The first member of the Board of Appeals shall be a member of the Planning Commission. The second member may be a member of the Township Board. The remaining three members of the Board of Appeals shall be appointed from among the electors of the Township. The remaining three members of the Board of Appeals may not be an elected officer of the Township, nor an employee or contractor of the Township Board and may not serve simultaneously as a member and an employee of the Board of Appeals.

- B. The members selected from among the electors of the Township shall each serve a term of three years and until the member’s successor is appointed and qualifies; provided, however, that the terms of the members first appointed shall be for varying numbers of years, none of them exceeding three, so as to provide for differing expiration dates of members’ terms. The terms of the Board of Appeals members who are Township Board members and Planning Commission members shall coincide with their respective terms as members of those bodies.

SECTION 16.03 OFFICERS.

The Board of Appeals shall elect from its members a chairperson, vice chairperson and secretary. An officer of the Board of Appeals shall have a term of one year and until the officer’s successor is elected and qualifies. An officer may be reelected. An alternate member of the Board of Appeals shall not be eligible for election as an officer of the Board, but an alternate member who is called upon to serve as a member of the Board in the absence of a regular member who is an officer of the Board may, while serving, carry out the duties of the officer in whose absence the alternate member is serving.

SECTION 16.04 POWERS AND DUTIES OF ZONING BOARD OF APPEALS.

The Board of Appeals shall have all of the powers and duties prescribed by law and by this chapter, as follows:

- A. Hear and decide all appeals from and review any order, decision or determination made by the Zoning Administrator or other person authorized to enforce the provisions of this Ordinance.

- B. Act upon all questions arising in the administration of the Zoning Ordinance, including interpretation of the Zoning Map and the text of the Zoning Ordinance.

- C. Hear and decide dimensional and use variances and all other matters assigned to it for decision under the terms of this Ordinance.
- D. The Board of Appeals shall have no jurisdiction or authority to hear an appeal from a decision on a special land use or planned unit development (“PUD”), or to grant a variance from any condition of a special land use or PUD.

SECTION 16.05 DIMENSIONAL VARIANCES.

If an applicant seeks a dimensional variance from the provisions or requirements of this Ordinance because of dimensional characteristics of a lot or parcel of land, or because of exceptional topographic or similar conditions of the land, buildings or structures, the applicant shall demonstrate through competent, material and substantial evidence on the record that all of the following exist:

- A. That the enforcement of the literal requirements of this Ordinance would involve practical difficulties.
- B. That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- C. That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- D. That special conditions or circumstances do not result from the actions of the applicant.
- E. That the authorizing of such variance will not be of substantial detriment to other lands and uses and will not be contrary to the spirit and purpose of this Ordinance.

SECTION 16.06 USE VARIANCES.

If an applicant seeks a use variance from the provisions or requirements of this Ordinance, the applicant shall demonstrate, and the Board of Appeals shall make findings based upon competent, material and substantial evidence on the whole record that all of the following exist:

- A. That the enforcement of the literal requirements of this Ordinance would cause unnecessary hardship.
- B. That exceptional conditions or extraordinary circumstances exist which are unique to the land, structures or buildings involved, and which are not so general or recurrent in nature so as to make reasonably practicable an amendment to this Ordinance.
- C. That literal interpretation of the provisions of this Ordinance would deprive the applicant of a substantial property right commonly enjoyed by other properties in the same zoning district.
- D. That special conditions or circumstances do not result from the actions of the applicant.

- E. That the authorizing of such variance will not be of substantial detriment to the adjacent and nearby properties and will not be contrary to the spirit and purpose of this Ordinance.

No nonconforming use of nearby lands, structures or buildings shall in itself be considered grounds for the issuance of a variance.

SECTION 16.07 CONDITIONS OF APPROVAL.

In approving a variance, the Board of Appeals may include such terms and conditions that the Board deems reasonably necessary to carry out the intent and purposes of this Ordinance and for the protection and advancement of the public interest. The Board may also require that the applicant submit a site plan prepared in accordance with Chapter 16A of this Ordinance before application is made for a building permit.

SECTION 16.08 TIME LIMIT ON VARIANCES.

Any variance granted by the Board of Appeals shall not be valid after a period of twelve months from the date granted unless the owner shall have taken substantial steps, as determined by the Board of Appeals, in implementing the variance granted by the Board of Appeals; provided that the owner, upon application filed prior to the expiration of the variance, may obtain an extension of the variance for an additional period of twelve months upon showing that the expiration of the variance will cause an undue hardship to the owner.

SECTION 16.09 MEETINGS AND PROCEDURE.

- A. The Board of Appeals shall adopt bylaws and rules of procedure as necessary to conduct its meetings and related purposes.
- B. The Board of Appeals shall conduct business only when a majority of its members is present, including any alternate member serving in the absence of a regular member in accordance with Section 16.10. Three members shall constitute a quorum.
- C. Meetings of the Board of Appeals shall be held at such times as the Board of Appeals may determine.
- D. An appeal from an order, decision or determination by the Zoning Administrator or other person authorized to enforce or administer this Ordinance may be taken by any person aggrieved by such order, decision or determination.
- E. An application for an appeal, a variance or other authorized relief shall be accompanied by payment of the required application fee and escrow deposit and shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.
- F. After an application for an appeal, a variance or other authorized relief is complete, has been filed in proper form, and the application fee and escrow deposit has been paid, the secretary of the Board of Appeals shall schedule the application or appeal for a public hearing within a

reasonable time and any required notice of hearing shall be given in accordance with Section 15.08 of this Ordinance.

- G. The Board of Appeals shall decide all applications and appeals within a reasonable time.
- H. The Board of Appeals may reverse or affirm, in whole or in part, or may modify, the order, decision, or determination that is being appealed. For such purpose, the Board shall be deemed to have all the powers of the Township officer or body from whom the appeal was taken. In its decision, the Board of Appeals may direct the issuance of all relevant Township permits.
- I. The affirmative vote of a majority of the members of the Board of Appeals shall be required to reverse or affirm the order, decision or determination that is being appealed, or to grant a variance from any provision of this Ordinance; provided, however, that a use variance shall not be granted unless approved by an affirmative vote of at least a two-thirds majority of the members of the Board of Appeals.
- J. A decision of the Board of Appeals on an appeal from a Township officer or body shall be final; provided, however, that a party aggrieved by the Board of Appeals' decision may appeal to the circuit court in the manner permitted by law, within the following time periods:
 - 1. Thirty days after the Board of Appeals issues its decision in writing, signed by the chairperson; or
 - 2. Twenty-one days after the Board of Appeals approves the minutes of its decision.
- K. Members of the Board of Appeals who are members of the Township Board or of the Planning Commission, respectively, shall not participate in or vote on matters that the members previously voted on in their respective capacities as Township Board member or Planning Commission member.
- L. The Board of Appeals shall keep minutes of its proceedings, showing the actions of the Board.

SECTION 16.10 ALTERNATE MEMBERS.

The Township Board may appoint up to two alternate members of the Board of Appeals, in the same manner as regular members are appointed. An alternate member may serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also serve as a member of the Board for the purpose of reaching a decision in a case in which a regular member has abstained because of conflict of interest. An alternate member who is called to serve in a case before the Board shall serve in the case until a final decision is made, whether at one or more meetings. An alternate member of the Board of Appeals has the same voting rights as a regular member of the Board.

SECTION 16.11 REMOVAL OF MEMBERS, CONFLICTS OF INTEREST.

- A. A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office, upon a written statement of the reasons or grounds for the proposed removal and after a public hearing by the Township Board. At the public hearing, the member who is proposed to be removed shall be given an opportunity to address the Township Board.

- B. A member of the Board of Appeals shall disqualify himself or herself from voting on a matter in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from voting in a matter in which the member has a conflict of interest constitutes malfeasance in office.

(Chapter 16 was amended entirely by Ord. No. 09-75.)

CHAPTER 16A
SITE PLANS

SECTION 16A.01 PURPOSE.

It is the purpose of this chapter to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The intent of these regulations is to provide for consultation and cooperation between the developer and the Township Planning Commission so that both parties might realize land uses consistent with the requirements and purposes of this Ordinance. The regulations contained in this chapter are intended to promote:

- C. Safe and convenient traffic movement, both within a site and in relation to access streets.
- D. Harmonious relationships of buildings, structures and uses, both within a site and with adjacent sites.
- E. Conservation of natural amenities and resources.
- F. Compliance with the provisions of this Ordinance and all other applicable Township, state and federal laws.

As used in this Ordinance, “site plan” includes those documents and drawings required to insure that the proposed land use or activity complies with applicable law.

SECTION 16A.02 REQUIRED SITE PLANS. (Section 16A.02 amended in its entirety by Ord. 81-2010.)

Prior to the issuance of a building permit or zoning permit, and prior to the commencement of construction, a site plan shall be submitted to the Township for review and approval, as follows:

- A. A site plan shall be submitted to the Zoning Administrator for approval of any principal or accessory agricultural building, but the Planning Commission may, in its sole discretion, exercise the right to review and approve any or all such site plans, prior to the issuance of permits.
- B. A site plan shall be submitted to the Zoning Administrator for approval of any two-family dwelling in the R-5 District. The Zoning Administrator may, in his or her discretion, refer any such site plan to the Planning Commission for its review and approval.
- C. A site plan shall be submitted to the Planning Commission for approval of any use permitted in any commercial or industrial zoning district.
- D. A site plan shall be submitted to the Planning Commission for approval of any multi-family dwelling in any zoning district.
- E. A site plan shall be submitted to the Planning Commission for any church, public school or private or parochial school, or any public or private recreational facility to be constructed.

- F. A site plan shall be submitted to the Planning Commission for any special use and also for any Planned Unit Development, provided that if the requirements for a site plan as provided in this chapter are met by plans and other documentation required in Chapter 9, then a separate site plan shall not be required pursuant to this chapter.
- G. A site plan shall be submitted to the Planning Commission when any other section of this Ordinance requires site plan approval.

SECTION 16A.03 SITE PLAN CONTENT.

- A. Seven copies of the site plan, drawn to a minimum scale of 1"=50', shall be submitted. Site plans shall be dated with any subsequent revisions noted. Each site plan shall indicate the following: **(Amended by Ord. No. 81-2010.)**
 - 1. Name, address, and telephone number of the applicant.
 - 2. A vicinity map showing the relationship of the site to the surrounding area.
 - 3. Scale of drawing.
 - 4. North arrow.
 - 5. Topography with contour lines at not more than five-foot intervals.
 - 6. Property lines and dimensions.
 - 7. On-site traffic circulation, including location and number of parking spaces.
 - 8. The location, size, height, shape, lighting, and appearance of existing and proposed signs, including a drawing of any proposed sign.
 - 9. The location of access drives and roads including deceleration and acceleration lanes where required by ordinance of highway authority.
 - 10. The location of access drives and roads on abutting properties within 100 feet of the site and an indication as to how interconnections might be made to eliminate unnecessary curb cuts.
 - 11. The location and sizes of all existing and proposed pedestrian walks, fences, and similar items.
 - 12. A landscaping plan of the site, including greenbelts and/or screening and/or buffering if required, with reference to type, dimensions and character.
 - 13. An indication of the adjoining land uses and zoning classifications including location of existing structures on land adjacent to the site within 100 feet of the site's parcel lines.

14. Location and size or capacity of all existing and proposed public and/or private utilities, water lines and sewer lines with reference to availability and compatibility.
15. Location and size or capacity of all existing and proposed storm drainage facilities.
16. Proposed phases of development and/or period of time within which the project will be completed.
17. Location of exterior lighting.
18. Trash receptacle location and method of screening.
19. Front, side, and rear yard dimensions.
20. Location, intended use, and dimensions of existing and proposed buildings and other structures, including any below ground structures.
21. Location of ponds, rivers, creeks, drainage courses, wooded areas, flood plains, and wet lands with reference to ground covers and other pertinent physical features of the site such as trees.
22. The name and address of the professional individual, if any, responsible for the preparation of the site plan.
23. Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
24. A description of all aspects of such plan which might have an adverse effect on public health, safety and welfare.
25. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase contract.
26. Method of financing and commitments, or other proof of ability to obtain financing.
27. An environmental impact analysis of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.
28. A fiscal impact analysis of a development onto the Township and other governmental units (e.g., schools, public safety, roads, etc.)
29. A traffic impact analysis of a proposed development onto the Township and other governmental units.
30. Additional information which the body or official reviewing and improving the site plan may request which is reasonably necessary to evaluate the site plan.

- B. Multiple family development site plans shall, in addition to the items in “A” above, indicate the following:
1. Site acreage figures.
 2. Density calculations by unit and by bedroom.
 3. Designation of units per building.
 4. Location and sizes of carports and/or garages.
 5. Details of community building and recreational facilities and areas.
- C. Office, commercial, and industrial development site plans shall, in addition to the items in “A” above, indicate the following:
1. Loading, unloading areas.
 2. Total floor area.
- D. The Planning Commission reviewing the site plan shall have the discretion to waive the inclusion in the site plan of any of the above referenced information, provided a quorum of the Planning Commission members are present and a supporting role call vote is accomplished.

SECTION 16A.04 STANDARDS.

In addition to any standards or requirements specified in other sections of this Ordinance which are relevant to the project for which site plan approval is sought (including, where applicable, the standards of the Overlay District), the following shall be considered when reviewing and approving site plans, and in the application of conditions as provided for in Section 16A.05. No site plan shall be approved unless the Planning Commission finds that the following conditions exist: **(Amended by Ord. No. 90-12.)**

- A. The use intended shall have parking facilities as required by the Zoning Ordinance, proper ingress and egress, exits, and entrances, streets, roads, and alleys, and screening walls and/or fences. The construction of the same shall be engineered, planned, and installed correctly to assure the needs of public safety, health, and welfare and to assure rendition of proper services concerning fire and police protection, disposal of surface water and sanitary sewage, traffic control and maintenance services as furnished or may be required by the Township, and to assure preservation and protection of property rights to related or adjoining properties.
- B. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the existing natural features of the land, the character of adjoining property, and type and size of buildings. Structures, walls, fences, and landscaping will be located so as to not be detrimental to each other or to existing or potential adjacent development. The site will be so developed as not to impede the normal and orderly development or improvement or surrounding property for uses permitted in this Ordinance.

- C. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and by topographic modifications which result in maximum harmony with adjacent areas. Additional or replacement landscaping shall be provided in accordance with this Ordinance.
- D. The site plan shall provide reasonable visual and acoustical privacy for all dwelling units located therein. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants. Objectionable views or uses shall be screened.
- E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides wherever possible.
- F. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area.
- G. Appropriate measures shall be taken to insure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system through the development of a storm water management plan.
- H. Adequate improvements and site design features shall be incorporated to insure protection of surface and groundwater resources from adverse impacts.
- I. The site plan shall comply with all applicable requirements of Chapter 23, pertaining to outdoor lighting. **(Added by Ord. No. 90-12.)**

SECTION 16A.05 CONDITIONS.

Reasonable conditions may be imposed with approval of a site plan. The conditions may include those necessary to insure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity, to protect the natural environment and conserve natural resources and energy, and to insure compatibility with adjacent uses of land. Conditions imposed shall meet all of the following requirements:

- A. Protection of existing natural features of the land.
- B. Protection of existing and future land uses adjacent to the land described in the site plan.
- C. Compliance with applicable laws.
- D. Protection of the general health, safety, and welfare in accordance with the valid exercise of police power.
- E. Carry out the intent and purpose of this Zoning Ordinance.

SECTION 16A.06 PROCEDURES.

- A. Unless waived by the Planning Commission as not being necessary, site plans shall include all the requirements described in Section 16A.03. The Planning Commission may deny acceptance of any application until such time as these requirements are fulfilled. Each site plan submitted for site plan review shall be accompanied by an application on a form provided for such purpose. The application shall, at a minimum, include the following information:
1. Name, address, and telephone number of the applicant and the owner of the land, if different than the applicant.
 2. Address of property.
 3. Name of the proposed development.
 4. Detailed statement of intent of the proposed use.
 5. Zoning classification of the site.
- B. If rezoning of the land is required to allow the proposed development or use of the property as provided for in the site plan, a concept approval of the site plan by the Township Planning Commission shall be considered contingent upon rezoning of the subject property by the Township Board; such concept site approval shall not be construed as any assurance of such rezoning nor shall it be binding on the applicant if the rezoning is approved.
- C. An approved site plan shall be effective for a period of one year, of the life of a building permit obtained pursuant to the approved site plan, whichever is longer. If construction is not commenced within the period that the site plan is effective, no construction shall take place unless there has been an extension approved by the Township Board and before the extension is granted there is compliance with all applicable site plan requirements that are in effect at the time of the extension.
- D. Before a site plan is marked “approved,” it shall be revised to reflect any conditions attached to the approval, or changes or corrections required to obtain approval.
- E. All requirements of this Ordinance, and any other applicable Township ordinance, standard, specification or regulation shall be complied with even if not specifically included in an approved site plan.
- F. The Planning Commission may, in its sole discretion, refer any site plan to the Zoning Administrator for preliminary review and a recommendation thereon, prior to the Planning Commission making a final decision on the site plan. **(Amended by Ord. No. 81-2010.)**

SECTION 16A.07 BUILDING PERMIT.

Where a site plan has been approved for any project, any building permit issued shall provide that the development be completed in accordance with the approved site plan. Failure to conform with such site plan shall be a violation of this Ordinance and cause for revocation of the building permit.

SECTION 16A.08 IMPROVEMENTS, FINANCIAL GUARANTEES.

The Planning Commission may require a performance bond letter of credit or certified check in the amount equal to the estimated cost of road, lighting, utility; sidewalk, landscaping and drainage improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated in the approved site plan; if not, the performance guarantee shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Planning Director. In cases where the provisions of this chapter have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to complete the required improvements; and the balance, if any, shall be returned to the applicant.

**CHAPTER 17
ORDINANCE AMENDMENT**

SECTION 17.01 INITIATION OF AMENDMENTS.

Amendments to this Ordinance may be initiated by the Township Board by resolution or by any interested person or persons by petition to the Township Board.

SECTION 17.02 AMENDMENT PETITION PROCEDURE.

All petitions for amendment to this Ordinance shall be in writing, signed, and filed in triplicate with the Township Clerk for presentation to the Township Board. Such petitions shall include the following:

- A. The petitioner's name, address, and interest in the petition as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned.
- B. The nature and effect of the proposed amendment.
- C. If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned.
- D. The alleged error in this Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons why the proposed amendment will correct the same.
- E. The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
- F. All other circumstances, factors and reasons which the petitioner offers in support of the proposed amendment.

SECTION 17.03 AMENDMENT PROCEDURE. (Section 17.03 amended by Ord. No. 06-65.)

After initiation, amendments to this Ordinance shall be considered as provided in the Michigan Zoning Enabling Act.

CHAPTER 18 PENALTIES

SECTION 18.01 PENALTIES.

Any land use commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance, or any permit or approval granted thereunder, is hereby declared to be a nuisance per se. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$2,500 for the first offense and not less than \$500 nor more than \$5,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, attorney fees, damages, expenses, and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.

SECTION 18.02 PROCEDURE FOR MUNICIPAL CIVIL INFRACTION CITATIONS.

- A. **Authority to Issue Citations.** The Township Supervisor is authorized to issue citations for violations of this Ordinance if the Supervisor has reasonable cause to believe an infraction has occurred, based upon either personal observation or the report of a person who has allegedly witnessed said infraction.
- B. **Other Authorized Local Officers. (Section 18.02.B amended by Ord. No. 06-61.)**
1. If the Township Supervisor is absent or otherwise unable to issue civil infraction citations, the Zoning Administrator shall have the authority to issue citations for violations of this Ordinance. The Zoning Administrator may issue citations if he or she has reasonable cause to believe an infraction has occurred, based upon either personal observation or the report of a person who has allegedly witnessed said infraction.
 2. Any deputy of the Ottawa County Sheriff's Department shall be considered an authorized local official who shall have the authority to issue citations for violations of any Township ordinance which is designated to be a municipal civil infraction. A sheriff's deputy may issue citations if he or she has a reasonable cause to believe an infraction has occurred, based upon either personal observation or upon the report of a person who has allegedly witnessed said infraction.
- C. **Form of Citations.** Municipal civil infraction citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator's office.
- D. **Service of Citations.** Municipal civil infraction citations shall be served upon the alleged violator as provided by law.

- E. **Appearance.** Municipal civil infraction citations shall require appearance at the district court within a reasonable time after the citation has been issued.
- F. **Procedure.** The procedures for the admission or denial of responsibility, request for informal or formal hearings, and all other matters related to processing of citations for civil infractions shall be as provided by law.

SECTION 18.03 INJUNCTIVE RELIEF.

The issuance of a municipal civil infraction citation and the imposition of the foregoing municipal civil infraction penalties against a violator shall not prohibit the Township from also seeking injunctive relief against the violator in circuit court, in order to abate the violation or to seek such other relief provided by law, including Township attorney fees. Authorization for the commencement of an injunctive action may be granted by the Township Supervisor or, in the Supervisor's sole discretion, he or she may refer the matter to the Township Board for a decision on whether to commence an action in circuit court.

CHAPTER 19
MISCELLANEOUS PROVISIONS

SECTION 19.01 ADMINISTRATIVE LIABILITY.

No officer, agent, employee, or member of the Planning Commission, Township Board, or Zoning Board of Appeals shall render himself personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

SECTION 19.02 SEVERABILITY.

This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION 19.03 REPEAL.

This Ordinance shall be deemed an amendment to the existing Polkton Township Zoning Ordinance which was effective June 24, 1978, which supersedes and replaces the existing Polkton Township Zoning Ordinance in its entirety. In addition, all other ordinances and parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance are repealed as of the effective date of the ordinance.

SECTION 19.04 EFFECTIVE DATE.

This Ordinance was approved by the Township Board on April 3, 1985, and is ordered to take effect in 30 days.

CHAPTER 20
PRIVATE STREETS AND DRIVEWAYS

SECTION 20.01 PURPOSE.

The Township has determined that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private streets, so as to assure the following matters:

- A. That private streets and driveways are designed with adequate width, surface and grade so as to assure safe passage and maneuverability of private and emergency vehicles.
- B. That private streets and driveways are constructed of suitable materials so as to ensure minimal maintenance and safe passage of vehicles.
- C. That private streets and driveways will be constructed so as to protect against or minimize soil erosion and to prevent damage to the lakes, streams, wetlands and other significant natural features of the Township.

SECTION 20.02 DEFINITIONS.

For purposes of this section, and where applicable, elsewhere in this Ordinance, driveways and private streets shall be defined as follows:

- A. A driveway is an improved or unimproved path or road extending from a public or private street or right-of-way to not more than two buildings, dwellings or parcels of land, and which is intended to provide the primary means of access to not more than two buildings, dwellings, or parcels of land. Driveways are not subject to the private street requirements of this chapter.
- B. An existing private street is a private street which is used to provide access to existing buildings, existing dwellings or existing parcels of land, as of the effective date of this Ordinance.
- C. A private street is a path, trail, road, driveway or street which provides or is intended to provide the primary means of access to three or more buildings, dwellings or parcels of land. A private street may be established by easement, right-of-way agreement or other written instrument, or by prescription or other rights of use.

SECTION 20.03 PRIVATE STREET REGULATIONS.

- A. **Design and Construction Requirements.** All private streets shall be designed and constructed in accordance with the following minimum design, construction, inspection, approval and maintenance requirements:
 - 1. The private street right-of-way shall be at least 66 feet in width; provided, however, that a private street measuring 660 feet or less in length and serving not more than four separate lots or parcels may have a right-of-way measuring not less than 40 feet.

2. The area in which the private street is located shall have a minimum cleared width of 30 feet.
3. The road bed of the private street shall be a minimum of 24 feet wide; provided, however, that a private street measuring 660 feet or less in length and serving not more than four separate lots or parcels may have road bed measuring not less than 20 feet in width.
4. Private streets serving from three or more buildings, dwellings or parcels of land up to 13 buildings, dwellings or parcels of land shall have a minimum subbase of 12 inches of sand and six inches of finished, compacted gravel (No. 22A), and shall otherwise comply with Ottawa County Road Commission construction requirements for unpaved, local roads; provided, however, that:
 - a. A private street within a platted subdivision, site condominium, condominium, open space preservation development or residential planned unit development shall be paved and constructed in accordance with subsection A.6 of this section;
 - b. A private street that provides or is intended to provide access to buildings or dwellings situated on lands having an overall gross development density that is equal to or greater than 1 unit/three acres (excluding any remainder parcel created by land division) shall be paved and constructed in accordance with subsection A.6 of this section; and
 - c. Any private street may be paved and constructed in accordance with subsection A.6 of this section.
5. Private streets serving 14 or more buildings, dwellings or parcels of land shall be paved in accordance with subsection A.6 of this section.
6. Paved private streets shall be constructed as follows: there shall be a minimum subbase of 12 inches of sand and six inches of finished, compacted gravel (No. 22A), and a minimum of three inches of bituminous aggregate. Such paved private streets shall comply with other applicable Ottawa County Road Commission construction requirements for local roads.
7. Any private street which terminates at a dead end shall have a cul-de-sac with a minimum turn-around radius of 50 feet of traveled street surface.
8. No private street shall extend for a distance of more than 2,000 feet in length from the nearest public street right-of-way as measured along the centerline of the private street, unless direct access is provided thereto from another public street; provided, however, that the Planning Commission may in its discretion approve a private street extending for a greater length from the nearest public street right-of-way, if the Planning Commission makes any one of the following findings of fact:

- a. That there are extraordinary circumstances or unusual hardship pertaining to the use and development of the land, such that a greater length of private street is reasonably necessary.
 - b. That another direct access to and from another public street cannot reasonably be provided.
 - c. That unless a greater length of private street is permitted, there will be land that cannot be used or developed and that there is no reasonable likelihood of such use or development unless the greater length of private street is approved.
9. The private street surface shall have a minimum crown of 2/10 of one foot from the centerline of the street to the outside edge thereof.
10. A street shoulder shall be provided on each side of the private street surface with a minimum width of two feet for each shoulder, and with a slope of 22/100 foot from the outside edge of the street surface to the toe of the slope, except where concrete curbing or valley gutters are provided.
11. The maximum longitudinal street grade shall not exceed 6 percent, provided the Township may allow up to a 10 percent grade provided the Township is satisfied that such increase in street grade will not adversely public safety or cause undue erosion.
12. A private street shall be constructed so as to sufficiently control storm water runoff, as follows:
 - a. For a paved private street within a platted subdivision, site condominium, condominium, open space preservation development or residential planned unit development, the drainage of surface water shall be accomplished by a closed, under-road drainage system, along with catch basins, valley gutter, storm sewers, manholes and other related appurtenances, in accordance with Ottawa County Road Commission standards for storm sewers serving platted public streets, and as approved by the Township Engineer.
 - b. For all other paved private streets, the drainage of surface water shall be accomplished by the same means specified in subsection A.12.a of this section; provided, however, that the Township Engineer may approve other means for the drainage of surface water, as specified in subsection A.12.c of this section, if the Township Engineer, in his or her discretion, determines that such other means will provide for equal or better drainage and control of storm water runoff.
 - c. For an unpaved private street, the drainage of surface water shall be accomplished by means of seepage basins, culverts and drainage contours and/or by such other effective methods as may be required by the Township Engineer, in his or her discretion, so as to ensure adequate drainage and control of storm water runoff.

13. The method and construction technique to be used in the crossing of any natural stream, wetland or drainage course, by a private street, shall satisfy the requirements of the Township Engineer and/or any governmental agency having jurisdiction.
14. A private street shall not serve more than 25 separate lots or parcels, unless approved by the Township Board as a special land use pursuant to Chapter 21 of this Ordinance. **(Amended by Ord. No. 81-2010.)**
15. All lots or parcels utilizing a private street shall have frontage on the private street that is equal to at least the minimum lot width for the zoning district in which the lot is located; provided, however, that minimum frontage for a lot or parcel fronting on a cul-de-sac of a private street may be reduced to 40 feet at the front lot line, as long as the lot or parcel meets the minimum width requirements of the zoning district at the minimum front yard setback line.
16. All private streets shall have direct access to a public street.
17. All private streets shall have a recorded permanent right-of-way or easement. The right-of-way or easement shall expressly permit public or private utilities to be installed within the right-of-way.
18. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is reasonably assured. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than 150 feet, as measured along the right-of-way lines thereof.
19. All private streets shall be named and identified by use of appropriately located street name signs. Street names shall not duplicate or be substantially similar to any existing street name in the County, except in the case of the continuation of an existing street. All lots fronting on a private street shall have an address on the private street. The address number of each dwelling shall be displayed in a manner such that it is readily visible from the private street, and each of the numbers shall be at least three inches in height.
20. A stop sign conforming to the requirements of the Ottawa County Road Commission shall be provided at the exit point from the private street to the public street, if required by the Road Commission.
21. All private streets, whether new or existing, shall at all times be improved, maintained, repaired and snowplowed so as to insure that the private street is safe for travel at all times and so that suitable access is provided for emergency vehicles, in addition to meeting the specific standards stated in this section. All persons who own property which abuts a private street are jointly and severally responsible for compliance with this requirement.

B. **Private Street Application.** An application to establish, extend, modify or relocate a private street shall be filed with the Township Zoning Administrator and shall include the following information:

1. The name(s), addresses and telephone numbers of the owners and any other parties having any legal interest in the private street and the property across which it is to be constructed along with the permanent parcel number(s) of all lots and parcels to be accessed by the private street.
2. A drawing(s), prepared and sealed by a professional engineer or land surveyor licensed by the State of Michigan, with a scale not less than 1"=200', containing the following information:
 - a. Location, route, elevations, dimensions of the private street in accordance with the standards of this chapter.
 - b. Proposed extensions of the private street.
 - c. A layout including dimensions of the parcels to be served by the private street, including parcels to be accessed by future extensions.
 - d. The location where the private street is to intersect with any public street.
 - e. The location of all public utilities including but not limited to water, sewer, telephone, gas, electricity and television cable to be located within the private street right-of-way or within 20 feet either side thereof.
 - f. The location of any lakes, streams and drains within the proposed private street right-of-way or within 100 feet thereof.
 - g. The location of any buildings and structures to be located within the private street right-of-way.
 - h. A detail of the private street cross section.
3. A copy of the recordable legal instrument(s) describing and granting the private street easement(s).
4. A copy of a recordable private street maintenance or restrictive covenant agreement that contains the following:
 - a. Provisions that assure the private street will be maintained, repaired and snow plowed for the full width of the roadway in accordance with the standards of this chapter and in a manner to assure the private street is safe for travel at all times.
 - b. Provisions that assure that the costs of maintenance of the private street and its easement are paid for in an equitable manner.

- c. A legal description of the private street easement and a legal description of the individual properties to be accessed by the private street as of the date of recording.
5. The applicant shall agree, in writing, that it will assure that any properties then existing or thereafter created which are accessed by the private street shall be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and run with the land. A copy of said agreement shall be furnished to the Township Attorney prior to recording. Prior to recording, the street maintenance or restrictive covenant agreement shall be revised to address comments provided by the Township Attorney. A recorded copy of the final street maintenance or restrictive covenant agreement shall be provided to the building official and Township Attorney before building permits are issued for any property accessed by the private road.
6. The applicant shall agree in writing, that by applying for and securing a permit to construct the private road, that it shall indemnify, save and hold the Township, and its officers, employees and agents, harmless from any and all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the private street. Said indemnification shall be included in the maintenance agreement recorded for the private road.
7. A Soil Erosion and Sedimentation Control Permit as issued by the Road Commission or the Soil Erosion and Sedimentation Control Agency having jurisdiction, if applicable.
8. A driveway permit issued by the Road Commission, and approval from the Road Commission of the proposed private street name.
9. Permit and escrow fees in the amounts as periodically established by resolution of the Township Board.
10. The name of the applicant's private street construction contractor and a statement of the contractor's experience in road construction.

C. Procedures for Review of a Private Street Application.

1. An application for a private street shall be submitted to the Zoning Administrator for an evaluation of whether the application contains all the information required by this chapter. If the application is complete, the Zoning Administrator shall forward the application to the Planning Commission for review. If the application is not complete, the Zoning Administrator shall return the application to the applicant with a written explanation of the deficiencies or omissions to be corrected.
2. After receipt of a complete application from the Zoning Administrator, the Planning Commission shall consider such application at a public meeting. If the private street is included in a proposed planned unit development, special land use, site condominium or other land development requiring Planning Commission

consideration, then the Commission may consider approval of the private street as a part of the proceedings for the development.

3. The Planning Commission shall review the application for the private street, and shall approve the application if, in its discretion, the Planning Commission determines that the following standards have been satisfied:
 - a. That the private street complies with all requirements of this chapter and other applicable provisions of this Ordinance.
 - b. That the private street would not create conditions which may be detrimental to the health, safety or welfare of persons or property, through their creation of hazardous or potentially hazardous situations.
 - c. The Planning Commission may consult with the Township Fire Chief, Attorney, Engineer, Zoning Administrator and/or building official, as deemed appropriate, in its consideration of a private street application.
4. In approving an application for private street, the Planning Commission may require that the applicant comply with reasonable terms and conditions relating to the placement, design, construction and use of the private street, consistent with the terms of this chapter and other applicable provisions of this Ordinance.
5. Following review and approval of a proposed private street by the Planning Commission, the Township building official, or his or her designee, shall determine whether to issue a construction permit for the private street.
 - a. No private street shall be constructed until the construction permit has been issued.
 - b. In determining whether to issue a construction permit, the building official, or his or her designee, shall consider the approval of the private street by the Planning Commission, whether the private street can be constructed safely and without adverse effects upon adjacent or nearby lands or property interests and whether the private street meets the design standards of this chapter.
 - c. In issuing a private street construction permit, the building official, or his or her designee, may impose such conditions as will assure compliance with the terms of this section.
6. As a condition of approval of a private street and the issuance of a construction permit therefor, the Township may require that the applicant provide a performance bond, with an acceptable surety, or a letter of credit, conditioned upon the timely and faithful performance by the applicant under the terms of this chapter and under the terms of any approvals given for the private street by the Planning Commission and/or building official.

7. Neither the Planning Commission's approval of a private street or the building official's issuance of a construction permit for a private street constitutes authorization for the construction or occupancy of a structure that will be served by the private street.

D. Certificate of Compliance.

1. Upon completion of construction of a private street, the building official, or his or her designee, shall inspect the completed construction to determine whether it complies with the approved plans and specifications for the street, the approval given therefor by the Planning Commission and building official, and the terms of this chapter and other applicable provisions of this Ordinance.
2. The applicant shall provide the Township with a set of "as built" drawings, bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of this chapter and other provisions of this Ordinance and with the terms of approvals given by the Planning Commission and building official.
3. After receiving the certified as built drawings and following the building official's review of the completed construction, the building official may issue and submit to the applicant a certificate of compliance, stating that, based upon the inspection of the construction, the private street complies with this chapter, other applicable provisions of this Ordinance and the Planning Commission and building official approvals.
4. If, however, the completed private street does not satisfy the requirements of this chapter, other applicable provisions of this Ordinance or approvals given by the Planning Commission and/or building official, the building official shall notify the applicant in writing of such noncompliance and shall provide the applicant a reasonable period of time in which to correct the stated deficiencies. The building official may issue a certificate of compliance once the deficiencies have been corrected.

E. Building Permits; Occupancy Permits.

1. No building permits or other permits shall be issued for any dwelling, or other building, structure or use, the primary access to which is to be provided by a private street, until the private street has been approved in accordance with this chapter and other applicable provisions of this Ordinance, and until a private street construction permit and a certificate of compliance have been issued, except as stated in subsection E.2.
2. If a private street has not yet been completed and approved in accordance with this chapter and other applicable provisions of this Ordinance, but the applicant has submitted to the Township a performance bond, with acceptable surety, or a letter of credit, conditioned upon the timely and full completion of the private street in accordance with this section, then a building permit may nevertheless be issued for a

dwelling or for other building, structure or use, the primary access to which is to be provided by the private street; provided, however, that no such permit shall be issued unless the building official also determines that persons and vehicles may traverse the incomplete private street in sufficient safety. In such a case, the further construction of the private street shall be pursued diligently to completion.

3. An occupancy permit for a dwelling or other building, the primary access to which is to be provided by a private street, shall not be issued until the private street has been laid out and constructed in accordance with the requirements of this chapter and other provisions of this Ordinance and with the terms of approvals given by the Planning Commission and building official.

F. **Planned Unit Developments; Special Land Uses.** If a private street is proposed as part of a planned unit development or a special land use, the provisions of this chapter may be modified by the Township Board in the approval of the planned unit development or special land use, upon a determination that the requirements of the planned unit development or special land use and the requirements of this chapter would nevertheless be sufficiently accommodated. **(Amended by Ord. No. 81-2010.)**

G. **Existing Private Streets.** The provisions of this chapter shall apply to existing private streets to the extent stated in this subsection.

1. Notwithstanding the provisions of this chapter, a building or structure may be erected upon a lot or parcel abutting a private street constructed adjacent to that property before the effective date of this chapter if:
 - a. The lot or parcel was platted or otherwise of legal record as an individual lot or parcel as of the effective date of this chapter.
 - b. The private street has a cleared area of at least 16 feet, is graded to be passable by emergency vehicles and has sufficient gravel or other surface so as to be passable by all vehicles on a year-round basis.
2. Notwithstanding the other provisions of this section, if a building or structure is proposed to be erected upon a lot that was not platted or otherwise of legal record as an individual lot or parcel as of the effective date of this section, and if the private street abutting the lot or parcel was constructed before the effective date of this chapter, then the building or structure may be erected if that part of the private street which from its intersection with the public right-of-way, and extending across or adjacent to the lot or parcel on which the building or structure is to be constructed, is brought into compliance with the requirements of this section, with the following exceptions:
 - a. The required minimum right-of-way width may be reduced to 16 feet in width, or to such greater width as shall produce the maximum possible compliance with the required minimum right-of-way width under the terms of this section. The private street shall be graded so as to be passable by

emergency vehicles and it shall have sufficient gravel or other surface so as to be passable by all vehicles on a year-round basis.

- b. The requirement for a street maintenance agreement shall be waived if and to the extent that the owners of other properties abutting the private street refuse to agree upon street maintenance. In that case, there shall be recorded against the property a binding covenant that the owner of the property shall ensure that the private street shall be maintained, repaired and snowplowed so that it will be safe for travel at all times and that it will provide sufficient access for emergency vehicles. Such covenant shall not relieve other parties who utilize the street from their responsibilities to maintain, improve, repair and snowplow the street.
3. No private street which does not meet the requirements of this chapter shall be extended in length, unless the entire length of the private street, both the existing portion, and the new, extended portion, is brought into compliance with the provisions of this chapter, with the following exceptions:
 - a. The required minimum right-of-way width for the existing portion of the private street may be reduced to 16 feet, or to such greater width as shall produce the maximum possible compliance with the required minimum right-of-way width under the terms of this section. The private street shall be graded so as to be passable by emergency vehicles and it shall have sufficient gravel or other surface so as to be passable by all vehicles on a year-round basis.
 - b. The requirement for a street maintenance agreement shall be waived if and to the extent that the owners of other properties abutting the street refuse to agree upon street maintenance. In that case, there shall be recorded against the property a binding covenant that the owner of the property shall ensure that the private street shall be maintained, repaired and snowplowed so that it will be safe for travel at all times and that it will provide sufficient access for emergency vehicles. Such covenant shall not relieve other parties who utilize the street from their responsibilities to maintain, improve, repair and snowplow the street.
 - c. At the end of the private street a cul-de-sac shall be provided, with a minimum turn-around radius of 50 feet of traveled street surface.

SECTION 20.04 DRIVEWAY REGULATIONS. (Section 20.04 amended by Ord. No. 08-73.)

A. Application to Zoning Administrator or Planning Commission.

1. An applicant for a building permit shall provide documentation, as required by the Zoning Administrator, showing that the driveway which is proposed to serve the proposed building, structure or use complies with the minimum standards of this section.

2. With regard to a building or structure that does not require a building permit, but for which site plan approval is required, the applicant for site plan approval shall provide documentation, as required by the Planning Commission, showing that the driveway which is proposed to serve the proposed building, structure or use complies with the minimum standards of this section.
3. An application for a building permit or for site plan approval shall include a driveway permit issued by the Road Commission.

B. **Minimum Standards for Driveways and Shared Driveways.** No building permit shall be issued, and no site plan approval shall be granted, for a newly constructed building, dwelling or structure which is to be served by a driveway or shared driveway that is subject to the requirements of this section, unless the proposed driveway complies with the following standards:

1. The area in which the driveway or shared driveway is to be located shall have a minimum cleared width of 20 feet; said cleared width shall be maintained by the property owner or if a shared driveway by those persons having a legal right to use the driveway.
2. Overhead branches shall be trimmed to a height of 14 feet above the ground. Said trimmed height shall be maintained by the property owner or, if a shared driveway, by the persons having a legal right to use the driveway.
3. A shared driveway shall be located within an easement not less than 33 feet wide.
4. The driving surface of a driveway shall be at least 12 feet wide. For a shared driveway, the driving surface shall be at least 16 feet wide.
5. The driving surface of a single or shared driveway shall have a sub-base of stable soil and a minimum of six inches of MDOT 22A compacted gravel on the top thereof.
6. The driving surface of the driveway or shared driveway shall be crowned to facilitate drainage.
7. The longitudinal slope of the driveway or shared driveway shall not exceed 10 percent unless a steeper driveway is specifically approved by the Township Fire Chief.
8. The driving surface of the driveway or shared driveway shall be adequately maintained by the property owner, or by those persons with a legal right to use the driveway to ensure the safe passage of private and emergency vehicles.
9. When a driveway crosses any natural stream or drainage course, adequate provisions shall be included to maintain the surface water flow to the satisfaction of the Zoning Administrator and any other agency having jurisdiction thereof. The method used in crossing any natural stream, drainage course, or similar feature shall have a sufficient load capacity to safely support fire department equipment.

10. In constructing the crossing, best management practices to prevent soil from entering the stream or drainage way shall be used. Such measures shall also be used to ensure soil does not enter the stream or drainage way after construction of the crossing is completed. Such measures shall be approved by the Township Engineer.
11. Except where the driveway crosses a natural stream or drainage course, the driveway shall be no closer than 25 feet from the stream or drainage course or other body of water.
12. The street address shall be posted in a conspicuous place on the property so it is visible from a public or private road.
13. The inside radius of any driveway curve shall be a minimum of 50 feet.
14. A shared driveway which intersects a public road shall be a minimum of 125 feet from another shared driveway, or a private or public road which is on the same side of the road. This distance shall be measured between center lines. Where compliance with such separation distance cannot be achieved because of existing lot widths, location of other shared driveways or private or public roads, or topographical factors, the separation distance may be reduced to the minimum extent possible.
15. A driveway having a length equal to or greater than 600 feet, as measured from the edge of the improved portion of the abutting street to the closest portion of the principal building or structure located on the lot or parcel served by the driveway, shall be constructed and maintained with a cul-de-sac at its terminal end, having a minimum turn-around radius of 50 feet of road surface that is improved in accordance with subsection B.5. The Township Fire Chief may, in his or her discretion, approve an alternate design for the required turn-around, if the alternate design will provide a safe and adequate means for the maneuvering and turn around of fire department and other emergency vehicles.

C. **Exemption.** The regulations of subsection B shall not apply to driveways which are 100 feet or less in length, as measured from the edge of the improved portion of the abutting street to the closest portion of the principal building or structure located on the lot or parcel served by the driveway. Such driveways shall nonetheless be subject to the requirements of subsection E.

D. **Existing Lots and Driveways.**

1. An easement for a shared driveway which provides the sole means of access to a lot that is of record as of the effective date of the amendment adding this section shall comply with the provisions of this section, except that the provisions of subsections B.1, B.3, B.4, B.10 and B.12 shall be satisfied only to the extent that the existing limitations of the easement permit compliance with these provisions.
2. For a shared driveway existing as of the effective date of the amendment adding this section, which thereafter becomes a private street by extension or lot division, the

existing portion of the shared driveway shall be treated as an existing private street under Section 20.03.G of this chapter.

- E. **Minimum Standards for Exempt Driveways.** A driveway or shared driveway that is not subject to some or all of the requirements of subsection B shall nonetheless be constructed and maintained year round so as to assure safe passage and maneuverability of private and emergency vehicles, and shall otherwise meet or exceed the requirements for Fire Department Access Roads, as stated in the Uniform Fire Code.

**CHAPTER 21
SPECIAL LAND USES**

SECTION 21.01 INTENT.

The provisions of this chapter are intended to set forth the procedures and standards applicable to certain land uses, structure or activities which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and/or the community as a whole.

SECTION 21.02 APPLICABILITY.

Special uses include all uses classified as special use within the use provisions of the various zoning districts or in other provisions of this Ordinance. Special uses may be approved in accordance with the procedures outlined in Section 21.03 of this chapter. **(Amended by Ord. No. 81-2010.)**

SECTION 21.03 PROCEDURES.

- A. An Application shall be submitted to the Planning Commission of a form for that purpose together with a site plan prepared to the specifications contained in Chapter 16A of this Ordinance. Each application shall be accompanied by the payment of a fee as determined by the Township Board. In the event the allowance of a proposed use requires both a rezoning and special use permit, the application for rezoning shall be processed in its entirety prior to final action on the special use.
- B. Upon receipt of an application for a special use, a notice that the Planning Commission will hold a public hearing on the application shall be published and delivered in accordance with Section 15.08 of this Ordinance. **(Amended by Ord. No. 06-65.)**
- C. The Township Board shall make the final decision on all special land uses, following Planning Commission recommendation, in accordance with the following procedures:
 - 1. The Planning Commission shall hold a public hearing on a proposed special land use. Within a reasonable time after the public hearing, the Planning Commission shall make and forward to the Township Board a recommendation to either approve, deny or approve with conditions the special land use. The recommendation of the Planning Commission shall not be binding on the Township Board.
 - 2. The Township Board shall then make the final decision to either approve, deny or approve with conditions the special land use, within a reasonable time after receiving the Planning Commission's recommendation. **(Subsection C amended by Ord. No. 81-2010.)**
- D. The final decision of the Township Board shall be incorporated into a written statement containing the conclusions relative to the special land use under consideration, and which specifies the basis for the decision and any conditions imposed. **(Amended by Ord. No. 81-2010.)**

SECTION 21.04 ZONING BOARD OF APPEALS ACTION.

Owing to the discretionary nature of the decision to approve or deny a request for special use the Zoning Board of Appeals is without jurisdiction to accept appeals or grant variances from the standard(s) set forth within this chapter, and/or any other standard(s) contained within any other Polkton Charter Township Ordinance and the decision of the Township Board with respect to the approval or denial of special uses.

SECTION 21.04A TIME LIMITS ON SPECIAL LAND USE APPROVALS

- A. Each special land use permitted pursuant to this chapter shall be under construction within one year after the date of approval by the Township Board, and the construction shall be completed within one year after commencement of construction. For a special land use not requiring new construction, it shall be fully operational within one year after the date of approval by the Township Board. If these requirements are not met, the Planning Commission may, in its discretion, grant a single extension, not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of construction or operations.
- B. If a special land use has not been commenced within the time period stated in subsection A, or within any authorized extension thereof, any building permits issued for the special land use or any part thereof shall be of no further effect, and the special land use permit shall automatically expire. The permittee shall then be required, if it desires to continue to pursue the special land use, to seek renewed approval from the Planning Commission and Township Board, under the terms of this chapter, in the same manner as an original application.
- C. If a special land use is abandoned or otherwise ceases operation for a period of one year, the special land use permit shall automatically expire; provided, however, the Planning Commission may, in its discretion, extend the permit expiration date for up to one year, if the permittee submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the resumption of operations.
- D. If a special land use has expired under the terms of subsection C, or has failed to resume operations within any authorized extension, the permittee shall then be required, if it desires to continue to operate the special land use, to seek renewed approval from the Planning Commission and Township Board, under the terms of this chapter, in the same manner as an original application. **(Section 21.04A added by Ord. No. 107-20, eff. March 24, 2020.)**

SECTION 21.05 SPECIAL USE APPROVAL STANDARDS -- GENERAL.

In formulating recommendations or approving any special use, the Planning Commission and Township Board shall require that the following general standards be satisfied.

- A. Upon review of each application there shall be a determination as to whether each use on the proposed site will:

1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the area in which the use is proposed.
 2. Be adequately served by essential services such as highways, streets, police and fire protection, drainage, refuse disposal, water and sewer facilities and services.
 3. Not create excessive additional cost for public facilities and services.
 4. Not cause traffic congestion, conflict or movement in greater proportion to the normally prevailing for the use in the particular zoning district.
 5. Not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property, or the general welfare by reason of noxious or offensive production of noise, smoke, fumes, glare, vibration, odor or traffic.
- B. All applicable federal, state and local licensing regulations shall be complied with. Initial and annual proof of such compliance shall be a condition of special use approval and continuance thereof. Initial proof shall be provided to the Planning Commission, at the time of application. The permittee shall provide annual written proof to the Township Clerk, on a form provided by the Township, by not later than January 31 of each year. **(Amended by Ord. No. 81-2010.)**
- C. As a minimum or unless specifically modified by the provisions in Section 21.06 and dimensional standards and landscape, buffering and parking regulations otherwise applicable to the use and/or zoning district shall be maintained as outlined within the other various applicable chapters of this Ordinance. For uses permitted by right in one district in which the use is permitted by right shall serve as the minimum standards to which the site shall be designed. In such cases where there are conflicting standards, the most restrictive shall apply.
- D. Upon review, the Planning Commission or Township Board as appropriate may stipulate such additional conditions and safeguards deemed necessary for the protection of individual property rights and values, the general welfare and for insuring that the intent and objectives of this Ordinance are observed.
- E. Upon finding that any condition, safeguard or requirement has been breached, the Township Board may automatically invalidate the special use approval.

SECTION 21.06 SPECIAL USE APPROVAL STANDARDS -- SPECIFIC. (Section 21 Special land Uses, is hereby amended by the addition of the following as amended by Ordinance No. 39-98.)

SECTION 21.07 WIRELESS COMMUNICATION FACILITIES.

Changing technology in the field of communication, coupled with an increased dependence by business, government and individuals upon versatile and convenient communicative services has

resulted in wireless communication towers being located in increased numbers and in proximity to the users and benefactors of such communication services. Communication towers as defined herein may be sited in accordance with the following minimum site and performance standards.

A. **Site Standards.** The following site and development requirements shall apply:

1. The site shall contain a minimum of 15,000 square feet and have at least fifty feet of direct frontage access on a public road or have access to a public road via access easement having a width of at least five feet.
2. The use of guy wires is prohibited within residential districts.
3. The base of the tower and wire cable supports shall be enclosed with chain link fence having a height of at least five feet.
4. The provider must investigate the possibility of co-location and supply documentation if the company deems that it is not possible to share an existing tower.
5. To prevent a concentration of towers in one area the minimum spacing between tower locations shall be one mile irrespective of governmental jurisdiction.

B. **Performance Standards.** The following performance requirements shall apply:

1. The tower shall be setback from all property lines a distance equal to the tower's height, unless certified engineering plans and specifications have been submitted supporting the structural integrity of the tower, that it meets applicable national standards for such construction and that the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal.
2. No tower or antenna shall be constructed, located or maintained permanently or temporarily, within 30 feet of a property line.
3. Accessory structures are limited to those directly associated with the operation of the tower and may not be located within 30 feet of a property line.
4. All accessory structures shall not exceed a combined gross building area of 600 square feet.
5. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
6. Tower construction plans shall be certified by a registered structural engineer.
7. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.

8. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission. The applicant must demonstrate that the proposed tower has met such standards before approval is granted.
9. Metal towers shall be constructed of, or treated with, corrosive-resistant material.
10. Antennae and metal towers shall be grounded for protection against a direct lightning strike and shall comply with all applicable electrical codes.
11. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
12. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.
13. Towers shall be located so that they do not interfere with reception in nearby residential areas.
14. The site shall provide adequate area for maintenance vehicles to maneuver and park.
15. The base of the tower shall occupy no more than 500 square feet.
16. Height of the tower from average grade at its base shall not exceed 175 feet within a residential district, and 300 feet within all other districts.
17. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
18. Existing on-site vegetation shall be preserved to the maximum extent practical.
19. Advertising or identification of any kind attached to the tower and intended to be visible by passersby or from other structures is prohibited.
20. All antennae shall be painted to match the exterior treatment of the tower. The paint scheme shall be designed to minimize off-site visibility of the antenna.
21. Structures shall be subject to state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall comply to the extent required by such standard or the special use approval will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
22. Employees, supporting maintenance vehicles, and other auxiliary tool cribs, etc. shall not be stationed on the site on a permanent basis. Occasional or temporary repair and service activities are permitted.

23. Parking and drive areas shall be surfaced as provided in this Ordinance.
24. Where the site adjoins residentially zoned land or land used for residential purposes, two alternating rows of evergreen trees with a minimum height of five feet on 20 foot centers around the entire perimeter of the tower and related structures shall be provided.
25. The tower shall be removed by the operator, property owner or lessee within six months of cessation of use.

C. Minor Modifications to Accommodate Co-Location.

1. The Zoning Administrator may approve minor modifications to previously-permitted antennas or towers, provided that such modification is being performed to accommodate the co-location of an additional antenna, and provided that the modification otherwise complies with the requirements of this section.
2. No modification shall be considered minor if the modification will result in any one or more of the following conditions:
 - a. A tower or antenna being located closer to a residential use or district;
 - b. A height increase of ten feet or more;
 - c. A new ground structure that requires landscape screening under this section;
or
 - d. Any other material change that may substantially affect the original basis of approval.
3. Modifications that are not deemed minor shall be referred to the Planning Commission for consideration in the same manner as an original application for special land use approval under this chapter.

SECTION 21.08 SINGLE-FAMILY DWELLINGS IN THE AG-1 DISTRICT

- A. **Intent and Purpose.** The intent and purpose of this Section is to continue to encourage agricultural activities, to preserve natural features and the rural landscape, and to permit a limited number of specially-approved single-family dwellings at a density that is consistent with the goal of allowing the establishment of new livestock production facilities in accordance with the Category 1 GAAMPs for Site Selection, and which is consistent with the goal of not breaking up or removing any appreciable portion of land for farming.
- B. **Standards for Approval.** One single-family detached dwelling may be permitted on a lot or parcel in the AG-1 District, if recommended by the Planning Commission and approved by the Township Board, based on consideration of the following criteria:

1. **Other Dwellings.** Subject to subsections a through e, there shall not be more than four other dwellings located within a one-half (1/2) mile radius of the proposed new dwelling, as measured from the outer walls of the proposed new dwelling. When applying the half-mile radius specified by this Section, the following rules shall apply:
 - a. If a dwelling located within the specified half-mile radius is within the AG-1 District and is within the Township's jurisdictional boundaries, then such dwelling shall be counted toward the maximum number of dwellings.
 - b. If a dwelling located within the specified half-mile radius is not located within the Township's jurisdictional boundaries, then such dwelling shall not be counted toward the maximum number of dwellings.
 - c. If a dwelling located within the specified half-mile radius is not located within the AG-1 District, then such dwelling shall not be counted toward the maximum number of dwellings.
 - d. If the specified half-mile radius includes the location of a proposed or partially-constructed dwelling for which a special land use permit is in effect, then such dwelling shall be counted toward the maximum number of dwellings.
 - e. If the application of subsections a through d results in the consideration of the number of dwellings within an area that is less than a full half-mile radius, then the maximum number of other dwellings within that reduced area shall be three, rather than four.
2. **Date Parcel is of Record.** The Planning Commission and Township Board shall consider whether the lot or parcel upon which the dwelling is proposed to be constructed was lawfully of record, as a separate lot or parcel, prior to January 1, 2014. This criterion is not dispositive, but a parcel or lot that was lawfully of record prior to January 1, 2014, will be given more favorable consideration, as compared to a parcel or lot that was created on or after January 1, 2014.
3. **Drainage Systems.** The Planning Commission and Township Board shall consider whether there is competent evidence showing that the proposed dwelling will, if constructed, interfere with an existing drainage tile system or County Drain. The intent and purpose of this criterion is to ensure that flooding and other storm water management issues are not exacerbated by additional new dwellings.
4. **Minimum and Maximum Setbacks.** The proposed dwelling shall comply with all minimum required building setbacks of the AG-1 District, as set forth in Section 6.04.C of this ordinance. In addition, the proposed dwelling shall comply with the following maximum building setback requirements:
 - a. **Side yard** - The shortest side yard shall not be more than 200 feet.

- b. **Front yard-** Not more than 200 feet.

The intent and purpose of the maximum side yard and front yard requirements is to ensure that a dwelling is not remotely situated away from the boundaries of a large agricultural parcel, so as to render it less suitable for farming.

- 5. **Improved Curtilage.** The dwelling and its surrounding improved curtilage shall occupy no more than two acres of land area.

- 6. **Declaration of Farming Uses.**

- a. The owner of the lot or parcel upon which the dwelling is to be located shall provide a copy of the deed or other instrument by which he or she took title to the property, showing that said deed or instrument contains the following statement, as required by Section 109(4) of the Michigan Land Division Act: **“This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.”**

- b. If the owner cannot produce a deed or other legal instrument containing this required statement, then it shall be a condition of approval (if approval is granted) that the property owner shall prepare and cause to be recorded at the Ottawa County Register of Deeds, a declaration or similar legal instrument that includes the same statement required by Section 109(4) of the Michigan Land Division Act, as quoted above. The declaration or other legal instrument shall also include a legal description of the property on which the dwelling will be located, and it shall be signed by each owner of the same property.

- c. The declaration or other instrument containing this statement shall be submitted to the Township attorney for review and approval, prior to recording.

- d. The special land use approval shall not be effective, and no building permit shall be issued thereunder, until such time as the property owner has submitted a recorded copy of the declaration or instrument to the Township Clerk.

- 7. **Compliance With AG-1 District.** Except where this Section 21.08 provides a more stringent standard, a single-family dwelling shall comply with the minimum requirements of the AG-I District.

- C. **Terms and Conditions of Approval.** The Planning Commission and/or Township Board may impose terms and conditions on special land use approval for a single-family dwelling. Such terms and conditions may be imposed to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

D. **Limitations on Variances.** Consistent with Section 21.04 of this Ordinance, a person may not appeal the denial of a special land use for a single-family dwelling to the Zoning Board of Appeals ("ZBA"), and may not appeal or seek a variance from the ZBA relating to any term or condition that is imposed on any approved special land use for a single-family dwelling. However, Section 21.04 notwithstanding, a person who has been denied special land use approval for a proposed single-family dwelling in the AG-1 District may apply to the ZBA under Section 16.06 for a use variance, upon a showing that that the AG-1 zoning of the property has caused unnecessary hardship because it has rendered the property without any reasonable use, and upon a showing that the other standards of Section 16.06 have been satisfied.

E. **Time Limitation.**

1. **New Permits.** With respect to special land use permits issued after the effective date of the amendatory ordinance that added this provision, the following time limitations shall apply:

- a. A person holding a special land use permit for a single-family dwelling in the AG-1 District shall obtain a building permit and shall have the dwelling under substantial construction by not later than one year after the date the special land use permit has been granted by the Township Board. If this requirement is not complied with, the Township Board may, in its discretion, grant an extension not exceeding one additional year, if the permittee submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of construction.
- b. If a dwelling is not under substantial construction within the above-stated time period, or within an authorized extension thereof, the special land use permit shall become void and of no further effect, and any building permit issued thereunder shall also be void and of no further effect.

2. **Existing Permits.** With respect to special land use permits that were issued prior to the effective date of the amendatory ordinance that added this provision, the following time limitations shall apply:

- a. A person holding a special land use permit for a single-family dwelling in the AG-1 District shall obtain a building permit and shall have the dwelling under substantial construction by not later than one year after the effective date of the amendatory ordinance that added this provision. No extension may be granted.
- b. If a dwelling is not under substantial construction within one year after the effective date of the amendatory ordinance that added this provision, the special land use permit shall become void and of no further effect, and any building permit issued thereunder shall also be void and of no further effect.

- F. **Public Notice.** Prior to the public hearing on a special land use application for a single-family dwelling in the AG-1 District, notice of the public hearing shall be sent (a) to the persons specified in Section 15.08.B of this Ordinance, and (b) to all persons to whom real property is assessed within the half-mile radius specified in Section 21.08.B.1. The additional public notice required by subsection (b) applies only to real property that is within the Township.

(Section 21.08 amended by Ord. No. 99-15, eff. June 28, 2015.)

SECTION 21.09 MEDIUM WIND ENERGY TURBINES (MWETS). (Added by Ord. No. 09 76.)

- A. **Application.** In addition to the materials required for all special land uses, applications for MWETs shall include the following information/documentation:
1. **Site Plan.** A site plan shall be submitted, in compliance with Chapter 16A of this Ordinance.
 2. **Other Information.** In addition to the detailed information required on the site plan, the following additional information shall be included in the application materials:
 - a. The contact information for the owner(s) and operator(s) of the MWET, as well as contact information for all lot owners on which the MWET is located.
 - b. A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed MWET, and a statement from the landowner(s) of the leased site that the landowner(s) will abide by all applicable terms and conditions of the special use permit, if approved.
 - c. In the case of a condominium development, a copy of the condominium development's Master Deed and Bylaws, addressing the legal arrangement for the MWET.
 - d. The proposed number, representative types and height of each MWET to be constructed, including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.
 - e. Documents shall be submitted by the developer/manufacturer confirming specifications for MWET tower separation.
 - f. Engineering data concerning construction of the MWET and its base or foundation, which may include, but not be limited to, soil boring data.
 - g. Anticipated construction schedule.
 - h. A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures

that will be used for lowering or removing the MWET to conduct maintenance, if applicable.

- i. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications. The MWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act, the Michigan Tall Structures Act, and any applicable airport overlay zone regulations.
- j. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- k. Verification that the MWET will not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
- l. Verification that the MWET will not produce vibrations humanly perceptible beyond the lot on which it is located.
- m. Verification that the noise emanating from the operation of the MWET will not exceed, at any time, the maximum permissible sound levels stated in Section 4.32 of this Ordinance.
- n. The applicant shall conduct and submit an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the MWET and at the buildable area of any vacant adjacent lot with direct line-of-sight to the MWET that could accommodate an occupied building. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the shadow flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describe measures that shall be taken to eliminate or mitigate the problems.
- o. A written description of the anticipated life of each MWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the MWET(s) become inoperative or non-functional.
- p. The applicant shall submit a decommissioning plan that will be carried out at the end of the MWET's useful life, and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.

- q. Additional details and information as required by the special land use requirements of the ordinance, or as requested by the Planning Commission or Township Board. **(Amended by Ord. No. 81-2010.)**

B. Siting and Design Standards. All MWETs shall be sited and designed in accordance with the following requirements:

1. **Vibration.** A MWET shall not produce vibrations humanly perceptible beyond the lot on which it is located.
2. **Shadow Flicker.** Shadow flicker on a building shall not exceed 30 hours per year.
3. **Guy Wires.** Guy wires shall not be permitted as part of a MWET.
4. **Noise.** The noise emanating from the operation of a MWET shall not exceed, at any time, the maximum permissible sound levels stated in Section 4.32 of this Ordinance.
5. **Electrical System.** All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the MWET shall be buried underground at a depth in accordance with the applicable electrical code. Wires necessary to connect the WET to the tower wiring are exempt from this requirement.
6. **Signal Interference.** A MWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
7. **Anemometers.** If an anemometer is installed prior to, or in conjunction with a MWET, it must be done so in accordance with the following provisions:
 - a. The construction, installation, or modification of an anemometer tower shall require a zoning permit and applicable building, electrical or mechanical permits and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
 - b. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety, and decommissioning of this Ordinance that correspond to the size of the MWET that is proposed to be constructed on the site.
8. **Design.** The design of an MWET shall conform to all applicable industry standards, specifically including, without limit, the design standards set forth in subsection C.6 below.
9. **Visual Appearance.**
 - a. Each MWET, including accessory buildings and other related structures, shall be mounted on a tubular tower and a non-reflective, non-obtrusive color

(e.g. white, gray, black). The appearance of turbines, towers and buildings shall be maintained throughout the life of the MWET.

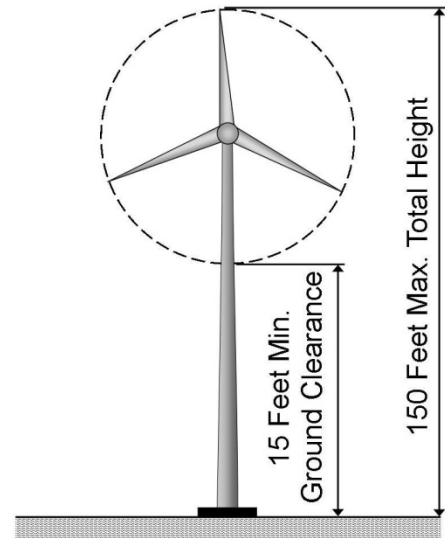
- b. No MWET may be artificially lighted, except to the extent required by the FAA or other applicable authority, or unless otherwise approved by the Planning Commission.
10. **Use for Display Purposes.** No MWET shall be used for displaying any advertising (including flags, streamers, or decorative items), except for reasonable identification of the turbine manufacturer or WET operator(s).
 11. **Location.** If a MWET is located or maintained on a lot with an occupied building, it shall only be located in the rear yard in accordance with this subsection. Provided, however, that an MWET may be located or maintained in a side yard or front yard of a lot that has an occupied building if it is set back at least 150 feet from the front lot line, as measured from the base of the tower. A MWET shall only be located in a general common element of a Condominium Development, or within the open space of a Planned Unit Development.
 12. **Setback and Separation.** The following setback and separation requirements shall apply to all MWETs:
 - a. **Occupied Building Setback.** The setback from all occupied buildings on the same lot shall be a minimum of 20 feet, measured from the base of the tower.
 - b. **Property Line Setbacks.** With the exception of the locations of public or private streets (see below), drain rights-of-way and parcels with occupied buildings (see above), the internal lot line setbacks shall be equal to the total height of the MWET as measured from the base of the tower.
 - c. **Private or Public Street Setbacks.** Each MWET shall be set back from the nearest private or public street a distance equal to the total height of the MWET.
 - d. **Communication and Electrical Lines.** Each MWET shall be set back from the nearest above-ground public electric power line or telephone line a distance equal to the total height of the MWET, as measured from the base of the tower, determined from the existing power line or telephone line.
 - e. **Tower Separation.** MWET tower separation shall be based on industry standard and manufacturer recommendation.

13. **Height.** The total height of a MWET shall not exceed 150 feet.

**MEDIUM WIND ENERGY TURBINE
(MWET) 250 KILOWATTS MAX. CAPACITY**

14. **Ground Clearance.** The lowest extension of any blade or other exposed moving component of a MWET shall be at least 15 feet above the ground (at the highest point of the grade level within 50 feet of the base of the tower) and, in addition, at least 15 feet above any outdoor surfaces intended for human occupancy, such as decks, balconies or roof gardens, that are located directly below the MWET.

15. **Quantity.** No more than one MWET shall be installed for every two and one-half acres of land included in the lot. The Planning Commission may allow more MWETs, if appropriate. In determining if additional MWETs are appropriate, the Planning Commission shall consider the size of the lot, the use of the lot, the location of the proposed MWETs, the use of and impact upon adjoining lots, and other relevant factors



C. **Safety Requirements.** All MWETs shall be designed to meet the following safety requirements:

1. **Net-Metering.** If the MWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

2. **Automatic Braking System.** The MWET shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower, rotor blades and other wind energy components, unless the manufacturer certifies that a braking system is not necessary.

3. **Prevention of Unauthorized Access.** Security measures shall be in place to prevent unauthorized trespass and access. Each MWET shall be enclosed by security fencing not less than six 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. All access doors to MWETs and electrical equipment shall be locked, to prevent entry by non-authorized persons.

4. **Removal of Hazardous Materials.** All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.

5. **Signage.** Each MWET shall have one sign, not to exceed two square feet in area, posted at the base of the tower and on the security fence, if applicable. The sign shall contain at least the following:
 - a. The statement: “Warning High Voltage.”
 - b. Manufacturer’s and WET owner/operator’s name.
 - c. Emergency contact number(s).
 6. **Structural Integrity.** The structural integrity of a MWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, “Wind Turbine Safety and Design,” IEC 61400-22, “Wind Turbine Certification,” and IEC 61400-23, “Blade Structural Testing,” or any similar successor standards.
- D. **Decommissioning.** Decommissioning of a MWET shall be done in accordance with the following requirements:
1. Any WET owner(s) or operator(s) shall complete decommissioning within six months after the end of the useful life. Upon request of the WET owner(s) or operator(s), and for a good cause, the Township building official, or his/her designee, may grant a reasonable extension of time. Each MWET will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of six months. The end of its useful life may also be established by other facts and circumstances determined by the Township building official or his/her designee. All decommissioning expenses are the responsibility of the WET owner(s) and operator(s).
 2. Decommissioning shall include the removal of each MWET, buildings, electrical components, and private streets to a depth of 60 inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade. Following removal, the location of any remaining MWET foundation shall be identified on a map as such and recorded with the deed to the lot with the County Register of Deeds.
 3. All private streets of access to the MWET shall be removed, cleared, and graded by the WET owner(s), unless the property owner(s) requests, in writing, a desire to maintain the private street in accordance with the standards of this Ordinance.
 4. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the MWET owner(s) or the assigns of the MWET owner(s). If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.
 5. If the MWET owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the Township may designate a contractor to complete

decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the lot. If the MWET is not owned by the lot owner(s), a bond, security deposit, or letter of credit must be provided to the Township for the cost of decommissioning each MWET.

E. Certification and Compliance.

1. Following the completion of construction of a MWET, the applicant shall certify to the Township, in a writing signed by a licensed Michigan Professional Engineer, that all construction has been completed in accordance with this Ordinance and the terms and conditions of the Special Land Use Permit.
2. The Township reserves the right to review all maintenance plans and bonds under this Ordinance to ensure that all conditions of the permit are being followed.
3. The Township shall be notified of a change in ownership of a MWET or a change in ownership of the lot on which the MWET is located.
4. The Township reserves the right to inspect any MWET in order to ensure compliance with the ordinance. Any cost associated with the inspections shall be paid by the WET owner(s)/operator(s).

SECTION 21.10 BARN EVENT VENUE.

- A. Purpose and Intent.** The purpose of this section is to allow for productive and desirable use of buildings which were originally constructed for agricultural purposes, but are no longer being used for those purposes. The preservation of such buildings has a public benefit to the Township in maintaining rural character and the agricultural tradition of the Township. In addition, while location on an operating farm is not required, adaptation of farm buildings can enhance and financially support existing farm operations for the benefit of the rural character and promotion of agriculture within the Township. In order to preserve compatibility with the neighborhood and the road system, and in recognition of a lack of public water, sewer and other public services, the operation of barn event venues is permitted, with limited hours of operation, and other appropriate requirements.
- B. Definition.** A barn event venue, as described in this section and referred to as a special land use in the AG-1 District, is defined as follows: The use of an existing building, originally constructed for agricultural uses, and made available on a lease or rental basis as a venue for events which are open on an invitation only basis, such as weddings, receptions, birthday or anniversary parties, graduation open houses, bridal or baby showers, or similar events.
- C. Application.** In addition to a site plan as required by Section 21.03.A and other application materials required by this Ordinance, an application for a barn event venue shall include the following:
1. A narrative describing the plan for the operation of the business, including types of events, catering, alcohol service, proposed days and hours of operation, supervision by responsible parties, and other information necessary or useful to demonstrate

compliance with the intent and purposes of this special land use and the requirements imposed herein.

2. A written report by a professional engineer, architect or licensed builder stating at least a preliminary conclusion that the building proposed is in, or can be brought into, compliance with all applicable building, electrical, mechanical and structural requirements applicable to a place of public assembly.
3. Confirmation from the Ottawa County Road Commission that a commercial driveway permit can be issued to provide access to the venue and parking area.
4. Verification of the date or approximate date upon which the building proposed for the use was constructed. The Zoning Administrator, Planning Commission or Township Board may waive this requirement if it is obvious that the building was constructed more than 30 years prior to the date of the application.

D. **Requirements.** In addition to the general requirements for special land use approval, the following specific requirements apply to a barn event venue:

1. **Existing Building.** The building proposed as the barn event venue shall have originally been constructed for farming or agricultural purposes, on the same premises where the barn event venue is proposed to be conducted, at least 30 years prior to the date of the application. This does not prevent remodeling or reinforcement of an existing building, or the construction of accessory buildings in support of the main venue, as permitted herein.
2. **Minimum Parcel Size.** The barn event venue shall be located on a parcel of no less than 10 acres. The Planning Commission or Township Board may modify the minimum acreage requirement for a particular use upon a finding that the use is compatible with adjacent or nearby properties and may be conducted in compliance with the other standards in the ordinance on less than 10 acres. The size and capacity of the buildings, parking area, and sanitation facilities shall be capable of safely handling the events on the property.
3. **Operation by Occupants.** The person who operates the barn event venue shall have a primary residence on the same property. This is not intended to prevent the use of caterers or others to perform functions under the supervision of the owner. To assure continued compliance with this provision, notification of all transfers of property associated with a barn event venue special land use shall be given to the Township Zoning Administrator 30 days prior to any such land transfer.
4. **Food and Beverage Service.** Food and beverage service shall be provided by caterers, and not at a full-scale kitchen on the premises. Alcohol service is permitted by licensed caterers in compliance with the Michigan Liquor Control Code. This is not intended to prevent installation of warming, storage, cooling or other equipment to assist the caterers in their operation. Caterers may also use licensed mobile food trucks to prepare food on-site; provided, however, that no mobile food truck shall

remain on the premises on a permanent basis, and shall be removed promptly upon conclusion of the event it was retained to serve.

5. **Timing of Events.** Events shall conform to the following schedule:
 - a. All events held on Fridays or Saturdays shall be completed by 11:00 p.m., and guests shall vacate the premises by that time. Alcohol service, if any, shall be concluded not later than 10:45 p.m.
 - b. All events held on Mondays through Thursdays shall be completed by 10:00 p.m., and guests shall vacate the premises by that time. Alcohol service, if any, shall be concluded not later than 9:45 p.m.
 - c. All events held on a Sunday shall be completed by 9:00 p.m., and guests shall vacate the premises by that time. Alcohol service, if any, shall be concluded not later than 8:45 p.m.
 - d. Any cleanup activity shall be completed no later than 48 hours after an event.
 - e. The Planning Commission or Township Board may impose hours of operation that are more restrictive than as stated above, if appropriate to protect neighboring properties or land use.
6. **Attendees.** The maximum number of attendees shall be not more than 200, or such lesser number specified by the Planning Commission or Township Board, subject to the further limitation of the maximum capacity of the buildings as permitted by the Michigan Building Code and available parking. The Planning Commission or Township Board may also impose supplemental restrictions, such as a limit prohibiting more than one event with an attendance greater than a specified number of persons in any weekend, or limiting the number of events in a weekend.
7. **Amplified Music.** Any speakers for amplified music or announcements shall be permitted only inside a fully enclosed building or structure. Amplified music may not be played later than 15 minutes before the required closing time, as stated in Section D.5.
8. **Parking.** Off-street parking shall be provided as shown on the site plan submitted with the special land use application. The minimum number of spaces shall be as provided in Chapter 13 for assembly halls. The Planning Commission or Township Board may impose a maximum number of permitted vehicles, and shall require appropriate screening, fencing or other landscaping, and shall prohibit the parking of vehicles within a specified distance from the right-of-way line of adjacent streets and provide other regulations to assure that vehicles are arranged in a safe manner, consistent with the requirements of Chapter 13. Any temporary banners, sawhorses, cones or other devices used to mark parking areas and direct traffic will be installed no more than 48 hours before an event and removed no later than 48 hours after an event. No parking whatsoever shall occur on public roads, even if permitted by Road

Commission regulations, and violation of this requirement shall constitute grounds for revocation of the special use permit.

9. **Parking Surface.** Barn event venue parking areas may have a grass surface if maintained in a dust and mud free condition. For more permanent parking, Chapter 13 shall control, except that the Planning Commission or Township Board may grant a parking modification with respect to the amount of parking area required to be paved, and allow (or require) parking on gravel, crushed concrete, grass, and similar areas, upon finding that paved parking would result in unnecessary amounts of paved parking area for the particular needs of the proposed use and that adequate parking for the business on non-paved areas as clearly designated on the site plan, is safe, and is compatible with adjacent or nearby properties. Dust and mud conditions shall, in all events, be controlled and avoided.
10. **Lighting.** All exterior lighting shall comply with the requirements of Chapter 23 of this Ordinance, as it pertains to the LZ 2 Lighting Zone, and shall require the prior approval of the Township Zoning Administrator to verify compliance.
11. **Temporary Structures.** Any tent or other temporary structure which is constructed in addition to the existing buildings and structures, so as to accommodate an event, shall be installed no more than 48 hours before an event and shall be dismantled and removed no more than 48 hours after an event.
12. **Signage.** One permanent identification sign complying with the dimensional requirements of Section 4.16.G.1.b of this Ordinance may be utilized. Temporary signage providing additional identification of the location and parking areas may be used on the day of the scheduled event. All signage shall comply with the applicable requirements of Section 4.16.
13. **Toilets and Lavatory Facilities.** Toilets and lavatory facilities shall be provided in accordance with the Michigan Building Code and applicable health department regulations, including handicap accessibility when required, but in no event shall less than two separate toilets and lavatory facilities be provided. The applicant may use portable facilities which, if used, shall be located as shown on the site plan.
14. **Trash and Refuse.** All trash and refuse resulting from events will be removed by the event sponsor or caterer no later than 48 hours after an event. If a dumpster or similar commercial trash receptacle will be located on the property, it shall be appropriately screened from view by landscaping, berms, fenced enclosure, or by other effective means, as approved by the Planning Commission and Township Board.
15. **Responsible Party.** The property owner shall maintain responsibility for operations at the site. The applicant shall designate to the Township a responsible party, with cellular and other phone number, as a contact in case there are problems during the course of an event. As a condition of special land use approval, the property owner shall be responsible for compliance with the conditions of this special land use

approval, regardless of whether violations are actually committed by employees, contractors, guests or others.

16. **Setback Requirements.** All buildings and structures on the site, whether permanent or temporary, shall conform to the minimum setback requirements of the district in which it is located, unless the Planning Commission or Township Board imposes a greater setback requirement. An existing legal non-conforming building and structure shall not be used for the business if such building or structure does not meet the current minimum setback requirements.
17. **Auxiliary Structures.** It is the intention of this section that significant additional buildings generally not be constructed to support the barn event venue. Auxiliary structures connected with the barn event venue, such as gazebos, pavilions and restroom facilities, may be constructed as shown on the site plan. Auxiliary structures constructed to support the barn event venue shall not exceed a total area of 1,200 square feet.
18. **Noise.** A barn event venue business, and all uses, events, programs or activities connected with the business, shall not create, assist in creating, continue or permit the continuation of any sound that is in excess of the maximum permissible sound levels stated in Section 4.32.A.1 of this Ordinance.
19. **Compliance with Laws and Regulations; Permits and Insurance.** All required federal, state, county and local permits for each use, event, program or activity, shall be secured and maintained by the applicant, including but not limited to the following:
 - a. Buildings, including but not limited to barns, shall not be used in the business until documentation is provided to the Township from a certified architect or engineer that the building so used is structurally sound and safe for the proposed activity. In addition, all buildings used in the business shall be inspected by and shall pass inspection by the Township building and electrical inspectors, and the fire marshal, for all proposed uses of the building as a place of public accommodation.
 - b. Food provided for the business shall be prepared offsite by a licensed caterer in accordance with Ottawa County Health Department requirements.
 - c. Alcoholic beverages shall not be provided unless the provider secures and maintains an appropriate license from the Michigan Liquor Control Commission.
 - d. Ottawa County driveway permits are necessary for ingress and egress from the site.
 - e. All buildings and structures shall be kept in compliance with applicable building and construction codes.

20. **Additional Requirements.** If unanticipated adverse impacts arise in connection with the operation of an approved barn event venue, which adversely affect the public health, safety or welfare, the Township Zoning Administrator may impose additional conditions and limitations upon the operation of the barn event venue so as to alleviate or eliminate those adverse impacts.
21. **Violations.** Violation of the conditions of an approving resolution for a special land use under this subpart shall constitute a violation of the Township Zoning Ordinance. Repeated violations of the conditions of the approving resolution are grounds for revocation of the special land use, following notice and public hearing by the Planning Commission. The requirements of this section shall be deemed to be incorporated into the approving resolution for the special land use and compliance therewith shall be a continued requirement for operation of the special land use.

(Section 21.10 added by Ord. No. 108-20, eff. March 24, 2020.)

SECTION 21.11 ELECTRICAL SUBSTATION OR GAS REGULATOR STATION.

Electrical substations and/or gas regulator stations shall comply with the following standards:

- A. Such use shall be located entirely within an enclosed fence or wall of at least six feet in height and adequate to obstruct passage of persons or materials.
- B. Evergreen trees of not less than six feet in height, at the time of planting, shall be planted around the entire fenced or walled enclosure, except for that area necessary for vehicular access to the interior of the enclosure. The selection, spacing, and size of the trees shall create, within a three-year period from the date of planting, a complete horizontal screen. Staggering of trees shall be required to provide the necessary horizontal screening effect.
- C. The fence or walled enclosure for such use shall be setback not less than 500 feet from the nearest building in all directions; provided, however, that if an electrical substation or gas regulator station complied with the 500-foot setback requirement at the time of its original approval and construction, but a new building has been constructed within the 500-foot setback since that time, then a subsequent expansion of the electrical substation or gas regulator station is not required to comply with this subsection C with respect to such new building, provided that the expansion complies with the standard setback requirements of the zoning district in which it is located and with subsection D, below.
- D. The fence or walled enclosure for such use shall be setback not less than 125 feet from (a) the property line of all abutting parcels in all directions, and (b) all public street rights-of-way.
- E. The use shall otherwise comply with the requirements of Sections 4.05.A.1 and 4.05.A.2 of this Ordinance.

(Section 21.11 added by Ord. No. 110-20, eff. May 26, 2020.)

CHAPTER 22
SITE CONDOMINIUMS

SECTION 22.01 PURPOSE.

Tracts of land that are developed and sold as site condominium developments are not subject to regulation under the Michigan Land Division Act of 1967. The Township determines it is in the best interest of public health, safety, and welfare to regulate the creation of site condominium developments to assure that these developments will not adversely affect the occupants thereof, adjacent properties, or the Township.

SECTION 22.02 COMMENCEMENT OF CONSTRUCTION; ISSUANCE OF PERMITS.

No construction, grading, tree removal, soil stripping or other site improvements or changes shall be commenced for a site condominium project until:

- A. A final site condominium project plan has been approved by the Township Board;
- B. All conditions to commencement of construction imposed by the Township Board have been met; and
- C. All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

SECTION 22.03 DEFINITIONS.

For purposes of this chapter, the following words and phrases are defined as follows:

- A. “Building envelope” means the area of a site condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.
- B. “Site condominium project” means a project consisting of not less than two site condominium units established in compliance with the Condominium Act, Act 59 of the Public Acts of Michigan of 1978, as amended.
- C. “Site condominium project plan” means the plans, drawings and information prepared for a site condominium project as required by Section 66 of the Condominium Act and as required by this chapter for review of the project by the Zoning Administrator, Planning Commission and the Township Board.
- D. “Site condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of surface or sub-surface vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner. For purposes of

determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, height, area, yard, and density requirements) or with other applicable laws, ordinances or regulations, a “site condominium unit” shall be considered to be the equivalent of a “lot.”

Except as otherwise provided by this section, words or phrases shall have the meanings as defined in the Condominium Act.

SECTION 22.04 APPLICATION FOR SITE CONDOMINIUM APPROVAL.

An application for site condominium approval shall include the following information:

- A. A condominium project plan which includes the documents and information required by Section 66 of the Condominium Act.
- B. To the extent it is not already included in the condominium project plan, the following information shall also be provided:
 - 1. The information required for site plan review by Section 16A.03 of this Ordinance.
 - 2. Layout and dimensions of each site condominium unit, and the building envelope for such unit.
 - 3. Written approval of the proposed design and location of the entrance to the site condominium from the County Road Commission or Michigan Department of Transportation, as applicable.
 - 4. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
 - 5. A storm drainage and a storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
 - 6. A utility plan showing all water and sewer lines and easements to be granted to the appropriate municipality or public utility for installation, repair and maintenance of all utilities.
 - 7. A narrative describing the overall objectives of the proposed site condominium project.
 - 8. A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
 - 9. A street construction, paving and maintenance plan for all private streets within the proposed condominium project.

SECTION 22.05 REVIEW OF PRELIMINARY PLANS BY THE PLANNING COMMISSION.

- A. Site condominium project plan review shall be commenced by filing with the Township Clerk ten copies of a preliminary site condominium project plan which complies with Section 22.04, together with an application fee and escrow deposit established by resolution of the Township Board.
- B. The Township Clerk shall forward the copies of the preliminary plan to the Zoning Administrator who shall review the preliminary plan to determine its completeness and to provide any comments to the Planning Commission regarding the Plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Planning Commission on completion of review, together with any comments from the Zoning Administrator.
- C. The Planning Commission shall review the preliminary site condominium project plan in accordance with the standards of Section 22.07 and other applicable procedures, standards and requirements provided by this chapter.
- D. After reviewing the preliminary site condominium project plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The Planning commission shall provide a copy of its written recommendations to the applicant and to the Township Board.

SECTION 22.06 REVIEW AND APPROVAL OF FINAL PLANS BY TOWNSHIP BOARD.

- A. After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Township Clerk a minimum of ten copies of a final site condominium development plan which complies with the requirements of this section and of Section 22.04. The Township Clerk shall forward the copies of the final plan to the Zoning Administrator who shall review the final plan to determine its completeness and to provide any comments to the Township Board regarding the plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Township Board on completion of review and comments by the Zoning Administrator.
- B. The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate

the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commissions shall be reviewed by the Planning Commission as provided by this chapter, prior to approval of the plan by the Township Board.

- C. After receiving the Planning Commission’s recommendations on the preliminary plan and a final site condominium development plan from the applicant, the Township Board shall proceed to review and may approve, deny or approve with conditions, the plan in accordance with the standards provided by Section 22.07 and other applicable procedures, standards and requirements provided by this chapter.
- D. As a condition of approval of a final site condominium project plan:
 - 1. The Township Board shall require that the plan be submitted to the County Health Department, County Road Commission, County Drain Commissioner, Michigan Department of Natural Resources, Michigan Department of Public Health, Michigan Department of Environmental Quality, and other appropriate state and county review and enforcement agencies (“the Agencies”) having direct approval or permitting authority over any aspect of the proposed site condominium project. Unless a different time limit for completion of review by the Agencies has been established by law or regulation, the review by the Agencies must be completed within 90 days after submission of an administratively complete final site condominium project plan.
 - 2. The Township Board may impose additional reasonable conditions of approval as provided by the Site Plan Review chapter and any other provisions of this Ordinance, any other Township ordinance, state law or regulation, or any other applicable law or regulation.
 - 3. The Township Board, in its discretion, may require reasonable performance guarantees or assurance deemed satisfactory in the circumstances and authorized by law. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved final site condominium project plan, including any conditions thereto, and construction and placement of all the improvements required thereby. In its discretion, the Township Board may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Board.

SECTION 22.07 STANDARDS FOR APPROVAL.

To receive approval, a site condominium project plan shall satisfy the following requirements:

- A. The plan shall satisfy the standards and requirements for site plan approval in Chapter 16A of this Ordinance, and shall satisfy the standards and requirements of Article IV of the Township Subdivision Control Ordinance.

- B. The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, shall comply with all requirements of the Condominium Act or other applicable laws, ordinances or regulations. The Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, or other appropriate persons shall be consulted as necessary to make this determination.
 - C. Each site condominium unit shall comply with all applicable provisions of this Ordinance, including, but not limited to, minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height.
 - D. Except as provided in subsection E of this section, access to and throughout a site condominium project shall be provided by public streets. The streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets, as required by the Ottawa County Road Commission.
 - E. In its discretion, the Township Board may, upon Planning Commission recommendation, allow a private street to provide access to and throughout a site condominium, subject to the following requirements:
 - 1. All private streets shall comply with Chapter 20 of this Ordinance.
 - 2. Provisions in the master deed and bylaws shall obligate the developer and/or owner's association to assure that all the private streets are regularly maintained, repaired and snowplowed so as to assure that they are safe for travel at all times. The master deed and/or bylaws shall also include a provision indemnifying and holding the Township harmless from any and all claims for personal injury and for property damage arising out of the failure to properly construct, maintain, repair and replace the private streets.
- In deciding whether to allow a private street, the Planning Commission and Township Board shall consider any recommendations provided by the Township Engineer and/or Township Fire Chief; the size of the condominium project and the number of dwellings to be served by the private street; the length of the proposed private street; the likelihood that the street will be extended in the future to serve development on adjacent or nearby lands; the topography of the project lands, the proximity of wetlands and other water bodies, and other similar factors that would affect street maintenance and the susceptibility of the project lands to flooding; and such other factors that would affect the ability of a private homeowners' association to adequately maintain, repair and replace a private street, and its associated drainage facilities, on a consistent, on-going basis.
- F. Each unit in the site condominium project shall be provided with public and/or private utility services in accordance with and as required by Section 4.10 of the Township Subdivision Control Ordinance.

SECTION 22.08 CONSTRUCTION IN COMPLIANCE WITH APPROVED PLAN.

No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a site condominium project except in compliance with a final site condominium project plan as approved by the Township Board, including any conditions of approval.

SECTION 22.09 COMPLETION OF IMPROVEMENTS.

No building or occupancy permit for a site condominium unit in an approved site condominium shall be issued until construction of all required improvements has been completed and approved by the Township, or security for completion of such improvements has been provided.

SECTION 22.10 EXPANDABLE OR CONVERTIBLE CONDOMINIUM PROJECTS.

Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Township Board in compliance with the procedures, standards and requirements of this chapter.

SECTION 22.11 REVISIONS OF APPROVED FINAL SITE CONDOMINIUM PROJECT PLAN.

Changes to a development for which a final site condominium plan has been approved are subject to this section.

- A. Any change which constitutes an exempt change shall not be subject to review by the Township under this chapter, but a copy of the exempt change shall be filed with the Township Clerk. “Exempt change” means:
 - 1. A change in the name of the development; in the name of a street within the development; or in the name of the developer;
 - 2. A change in the voting rights of co-owners or mortgagees; or
 - 3. Any other change in the site condominium development which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under the Zoning Ordinance.

- B. Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Zoning Administrator, any such minor change may be reviewed and approved by the Planning Commission. “Minor change” means a minor change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that will result in:

1. A decrease in the number of site condominium units;
 2. A reduction in the area of the building envelope for any site condominium unit;
 3. A reduction of less than 10 percent in the total combined area of the general common elements of the site condominium;
 4. A reduction in the total combined area of all limited common elements of the site condominium;
 5. Any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this Zoning Ordinance, and which, as determined by the Zoning Administrator, does not constitute a major change.
- C. Any change which constitutes a major change shall be reviewed by the Planning Commission and shall also be reviewed and approved by the Township Board, as provided in this chapter for the original review and approval of site condominium project plans. “Major change” means a major change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that could result in:
1. An increase in the number of site condominium units;
 2. Any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this Zoning Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Zoning Administrator to constitute a major change to the site condominium project.

SECTION 22.12 INCORPORATION OF APPROVED PROVISIONS IN MASTER DEED.

All provisions of an approved site condominium development plan shall be incorporated by reference in the master deed for the site condominium project. The Township shall require review and approval by the Township Attorney prior to recording. A copy of the master deed as recorded with the County Register of Deeds shall be provided to the Township within ten days after recording.

SECTION 22.13 TIME LIMITATION ON DEVELOPMENT.

- A. Each site condominium development permitted pursuant to this chapter shall be under construction within one year after the date of approval of the site condominium development plan by the Township Board. If this requirement is not met, the Township Board may, in its discretion, grant an extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the condominium development.

- B. If the site condominium development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the Planning Commission and Township Board under the terms of this chapter.

CHAPTER 23 OUTDOOR LIGHTING REQUIREMENTS

SECTION 23.01 PURPOSE.

The purpose of this chapter is to provide a regulatory strategy for outdoor lighting that will:

- A. Permit reasonable uses of outdoor lighting for night-time safety, utility, security, productivity, enjoyment and commerce.
- B. Curtail and reverse the degradation of the nighttime visual environment and the night sky,
- C. Preserve the dark night sky for astronomy.
- D. Minimize glare, obtrusive light, and artificial sky glow by limiting outdoor lighting that is misdirected, excessive, or unnecessary.
- E. Conserve energy and resources to the greatest extent possible.
- F. Help protect the natural environment from the damaging effects of night lighting from man-made sources.

SECTION 23.02 DEFINITIONS.

For the purposes of this chapter, the following words and terms shall be defined, as follows:

Artificial Sky Glow. The brightening of the night sky attributable to manmade sources of light.

Candela. The unit of luminous intensity of a lighting source emitted into a given direction.

Canopy. A roof-like covering over an area, in or under which a lighting fixture is mounted.

Drip Line Area. The area on the ground enclosed by vertical planes extending downward from the outer solid edge of a canopy.

Façade. The exterior wall of a building.

Glare. Light that causes visual discomfort or disability, or a loss of visual performance.

Hardscape Lighting. Lighting associated with architectural features, such as fountains, sculptures, and the like.

Landscape Lighting. Luminaires mounted in or at grade (not to exceed three feet overall above grade) and used solely for landscape rather than area lighting, or fully shielded luminaires mounted in trees and used solely for landscape or façade lighting.

Lighting Zone. A type of area defined on the basis of ambient lighting levels, population density, and/or other community considerations. The lighting zones are determined by the

Planning Commission. A description of these four lighting zones is given in Table 1 of this Ordinance.

Light Trespass. Spill light that because of quantitative, directional, or spectral content causes annoyance, discomfort, or loss in visual performance and visibility.

Lumen. The unit of luminous flux: a measure of the amount of light emitted by a lamp.

Luminaire ('light fixture'). A complete lighting unit consisting of one or more electric lamps, the lamp holder, reflector, lens, diffuser, ballast, and/or other components and accessories.

Luminance. The amount of light emitted in a given direction from a surface by the light source or by reflection from a surface. The unit is candela per square meter.

Luminous Flux. A measure of the total light output from a source, the unit being the lumen.

Mounting Height. The vertical distance between the lowest part of the luminaire and the ground surface directly below the luminaire.

Nadir. The downward direction; exactly vertical, directly below a luminaire.

Obtrusive Light. Glare and light trespass.

Ornamental or Accent Lighting. Outdoor lighting that is installed mainly or entirely for its decorative effect or to accent an object or a feature, rather than as an aid to visibility.

Photometric Test Report. A report by an independent testing laboratory or one certified by the National Institute of Standards and Technology (NIST) describing the candela distribution, shielding type, luminance, and other optical characteristics of a specific luminaire.

Point of Service Canopy. A canopy under which a business provides some service to a customer, such as food service, a bank transaction, or the like.

Shielding:

- A. **Fully Shielded** – A luminaire emitting no luminous flux above the horizontal plane.
- B. **Partly Shielded** – A luminaire emitting less than 2 percent of its luminous flux above the horizontal plane.
- C. **Unshielded** – A luminaire that may emit its flux in any direction.

Spill Light. Lighting from a lighting installation that falls outside of the boundaries of the property on which the installation is sited.

Temporary Lighting. Lighting installed with temporary wiring and operated for less than 60 days in any calendar year.

SECTION 23.03 CONFORMANCE AND APPLICATION.

- A. **Applicable Codes.** All outdoor lighting fixtures (luminaires) shall be installed in conformance with the provisions of this chapter, the Building Code, and the Electrical Code, as applicable and under appropriate permit and inspection.
- B. **Applicability.** Township street lighting is not covered by this chapter. However, it is recommended that all such lighting conform to all aspects of this chapter.

SECTION 23.04 LIGHTING ZONES.

- A. Using Table 1 as a guide, the Township shall determine and maintain lighting zones (LZs) within the boundaries of its jurisdiction.
- B. The lighting zone of a parcel or project shall determine the limitations for lighting as specified in this chapter.
- C. A decrease of one or more LZ numbers or an increase of one LZ number may be granted to a specific (individual) land parcel or project upon application to and approval by the Planning Commission.

Table 1 – Lighting Zone Ratings and Characteristics

Zone	Ambient Illumination	Representative Locations
LZ 1	Dark	Developed areas in County or Township parks, recreation areas, wetlands and wildlife preserves; developed areas in natural settings; and areas where residents have expressed the desire to conserve natural illumination levels. (This zone includes but is not limited to the AG-1 Agricultural Zoning District.)
LZ 2	Low	Rural areas, low- and medium density neighborhoods and districts. This zone is intended to be the default for residential areas. (This zone includes the R-1, R-2, and R-5 Districts, manufactured housing communities in the R-6 District, and any PUD single or two family developments.)
LZ 3	Medium	High-density urban neighborhoods, shopping and commercial districts, industrial parks and districts. This zone is intended to be the default condition for commercial and industrial districts in urban areas. (This zone includes R-6 Multiple Family, the commercial and industrial zoning districts, and any PUD multifamily, commercial or industrial development.)

SECTION 23.05 EXEMPT LIGHTING.

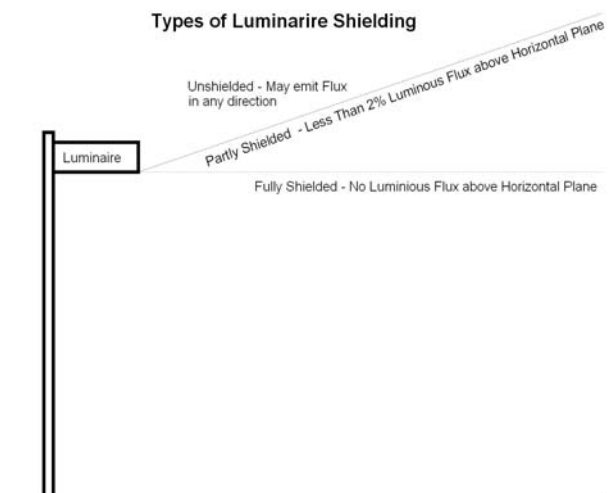
The following luminaires and lighting systems are exempt from the requirements of this chapter.

- A. **Internally Illuminated Signs.** However, all such signs shall have ‘dark’ backgrounds (opaque or colored) and “light” lettering (white or lighter colored than the background) so as to minimize glare or luminous overload.
- B. **Externally Illuminated Signs.** However, all such signs shall be lit from above, with fully shielded fixtures.
- C. Temporary lighting for theatrical, television, and performance areas.
- D. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- E. Code required exit signs.
- F. Code required lighting for stairs and ramps.
- G. Temporary holiday lighting.
- H. Lighting required and regulated by the Federal Aviation Administration, U.S. Coast Guard, or other federal or state agency.
- I. Interior lighting.

SECTION 23.06 HIGH INTENSITY, SPECIAL PURPOSE LIGHTING.

The following lighting systems are prohibited from being installed or used.

- A. Aerial Lasers.
- B. “Searchlight” style lights.
- C. Other very intense lighting, defined as having a light source exceeding 200,000 lumens or intensity in any direction of 2,000,000 candelas or more.

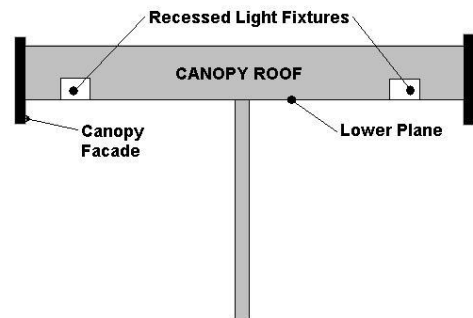


SECTION 23.07 LUMINAIRE LAMP WATTAGE, SHIELDING, AND INSTALLATION REQUIREMENTS.

- A. All outdoor lighting shall comply with the limits to lamp wattage and the shielding requirements in Table 2.
- B. Only luminaires that are allowed to be unshielded in Table 2 may employ flexible or adjustable mounting systems. All other luminaires shall be permanently installed so as to maintain the shielding requirements of Table 2.
- C. The Planning Commission may accept a photometric test report, demonstration or sample, or other satisfactory confirmation that the luminaire meets the requirements of the shielding classification.

Such shielded fixtures must be constructed and installed in such a manner that all light emitted by the fixture meets or exceeds the specification given. This includes all the light emitted by the fixture, either directly from the lamp or by a diffusing element, or indirectly by reflection or refraction from any part of the fixture. Any structural part of the fixture providing this shielding must be permanently affixed.

- D. All canopy lighting must be fully shielded. However, indirect up light is permitted under an opaque canopy provided that no lamp or vertical element of a lens or diffuser is visible from beyond the canopy and such that no direct up light is emitted beyond the opaque canopy.



- E. No portion of any fixtures under canopies (including the *glass housing*), such as over gasoline station pump islands, shall extend below the lower plane of the canopy roof, exclusive of any façade or ornamental trim which may extend below the canopy roof. They shall be recessed so the lamp does not extend below the lower plane of the canopy surface.
- F. In residential lighting applications, the wattages in Table 2 may be too high (especially for energy efficient lighting sources and for building mounted lighting). It is important for homeowners and designers to assess this potential for over-lighting and adjust to lower wattages if necessary, to avoid glare and light trespass.
- G. Any proposed neon lighting must be shown and found to be complementary to the overall design of the building and approved as part of the site plan approval (if applicable). Neon lights proposed to be used as an architectural detail shall be indicated on the building elevation and must be specifically found to be compatible with surrounding properties by the Planning Commission.

- H. The Planning Commission may require verification that all approved lighting is installed per specifications. A registered engineer, architect, or other design professional may provide this verification to the satisfaction of the Planning Commission.
- I. No lighting on any site shall cause or create obtrusive light.

Table 2 – Maximum Wattage and the Required Shielding

Lighting Zone	Fully Shielded	Partly Shielded	Unshielded
LZ 1	70 watts	45 watts	None permitted
LZ 2	150 watts	50 watts	<ul style="list-style-type: none"> • 35 watts or less for landscape lighting applications • 20 watts or less for non-landscape lighting applications
LZ 3	320 watts	165 watts	40 watts or less

SECTION 23.08 HEIGHT LIMITS.

- A. **Pole Mounted Lighting.** Lighting mounted onto poles or any structures intended primarily for mounting of lighting shall not exceed a mounting height of 40 percent of the horizontal distance of the light pole from the property line, nor a maximum height according to Table 3, whichever is lower.

Exception 1: Lighting for residential sports courts and pools shall not exceed 15 feet above court or pool deck surface.

Exception 2: Lights specifically for driveways, and then only at the intersection to the road providing access to the site, may be mounted at any distance relative to the property line, but may not exceed the mounting height listed in Table 3.

Exception 3: Mounting heights greater than 40 percent of the horizontal distance to the property line but no greater than permitted by Table 3 may be used provided that the luminaire is side shielded toward the property line.

Exception 4: Landscape lighting installed in a tree. (See the Definitions section.)

Table 3 — Maximum Lighting Mounting Height

Lighting Zone	Max Height
LZ 1	20 feet
LZ 2	25 feet
LZ 3	30 feet

B. **Lights Mounted to Buildings or Structures.** Lighting mounted onto buildings or other structures shall not exceed a **mounting height** greater than four feet higher than the tallest part of the building or structure at the place where the lighting is installed, nor higher than 40 percent of the horizontal distance of the light from the property line, whichever is less.

Exception 1: Lighting attached to single-family residences shall not exceed the height of the eave.

Exception 2: Lighting for **façades** may be mounted at any height equal to or less than the total height of the structure being illuminated regardless of horizontal distance to property line.

SECTION 23.09 TOTAL SITE POWER LIMITS.

A. This chapter applies to all outdoor lighting, whether attached to building, poles, structure, or self-supporting, including but not limited to hardscape areas (which include parking lots, lighting for building entrances, sales and non-sales canopies), lighting for all outdoor sales areas, and lighting for building façades.

B. The maximum allowed lighting limit shall be determined as follows:

1. Following the rules in Subsection 3 below, multiply the area (square footage) of each of the application types in Table 4 by the allowed lamp wattage per square foot for the appropriate lighting zone.
2. Add up the total of all wattage for each application type (separately).
3. The actual lighting load shall not exceed this total.

C. **Rules.**

1. Power is not allowed for any use types not listed, except for those items given in Section 23.05. (Exempt Lighting) and Section 23.06. (Special Purpose Lighting). Only one application type may be applied to any given area.

2. Canopy allowances include only the area within the drip line area of the canopy.
3. Areas that are not designed to be illuminated may not be counted toward the total site limit.

SECTION 23.10 RECOMMENDED LIGHTING FOR EXTERNALLY ILLUMINATED SIGNS.

Externally lighted signs should be lighted from the top of the sign downward and be fully shielded.

Exception: Signs not taller than ten feet above grade may be illuminated by landscape lighting complying with Table 2.

Table 4 - Lamp power allowances (w/ft² unless otherwise noted)

Lighting Application	Allowed Area	LZ 1	LZ 2	LZ3
Parking lots, plazas, hardscape lighting, driveways, on site private roads	Paved area plus five feet of the perimeter of adjacent unpaved land. Includes planters and landscaped areas less than ten feet wide that are enclosed by hardscape on at least three sides.	0.020	0.040	0.080
Sidewalks, walkways, and bikeways	Paved area plus five feet on unpaved land on either side of path of travel	0.040	0.080	0.15
Building entrances (without canopy)	Width of doors plus three feet on either side times a distance outward from the building from the surface of the doors ten feet.	0.35	0.50	.70
Building entry, drive-up sales, and general use canopies	Drip line area under canopy. 13 watts plus the value in the LZ columns.	0.10	0.20	0.40
Vehicle Service Station	Drip line area under canopy; or 500 square feet per double-sided fuel dispenser unit not under canopy	0.30	0.60	1.20
Building facades		Not allowed	0.18	0.35

Lighting Application	Allowed Area	LZ 1	LZ 2	LZ3
Outdoor Sales Lot	Portion of uncovered outdoor sales lot used for display of vehicles or other merchandise for sale. All adjacent access drives, walkway areas, customer parking areas, vehicle service or storage areas that are not surrounded on at least three sides by sales area shall be considered hardscape	Not allowed	Not allowed	30 w/lf
Ornamental Lighting	Entire site	By special permit only	0.010	0.020

SECTION 23.11 SPECIAL USE PERMIT.

- A. Upon special permit issued by the Township Board, lighting systems not complying with the technical requirements of this chapter but consistent with its intent may be installed for the following applications:
1. Sport fields and stadiums.
 2. Construction lighting.
 3. Industrial lighting for hazardous areas where the heat of the lighting fixture may cause a dangerous situation.
 4. Bridges.
 5. National and State Flag lighting with spotlights greater than 75 watts in LZ 3, and greater than 60 watts in LZ 1 and LZ 2
 6. Specialized theme park lighting.
 7. Public monuments, public buildings and Houses of Worship.
 8. Industrial areas where higher pole heights are required to avoid interference of vehicle with the pole assembly.
 9. Any other lighting application not listed in Table 4.

- B. To obtain such a permit, applicants shall demonstrate that the proposed lighting installation:
1. Is not within LZ 1 (except for necessary construction lighting or application 5 above).
 2. For applications 1, 2, 3 or 4 above, utilizes fully shielded luminaires and, if required, side shielded and internally shielded luminaires that are installed in a fashion that maintains the shielding characteristics unless certified in writing by a registered engineer or by a lighting certified professional that such shielding is impractical. Where fully shielded fixtures cannot be utilized, acceptable luminaires shall include only those which are installed with minimum aiming angles of 25 degrees downward from the horizontal. Said aiming angle shall be measured from the axis of the luminaire's maximum beam candlepower as certified by independent testing agency.
 3. Has received every reasonable effort to mitigate obtrusive light and artificial sky glow, supported by a signed statement from a registered engineer or by a lighting certified professional describing the mitigation measures.
 4. The Township Board shall review each such application. A permit may be granted if, upon review, the Township Board believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

SECTION 23.12 LUMINAIRE (LIGHT FIXTURE) ILLUSTRATIONS.

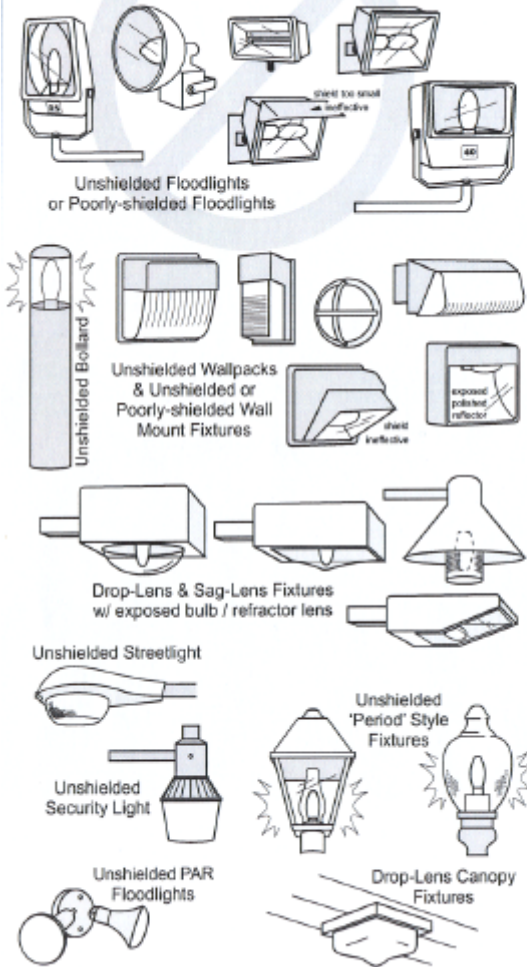
The following luminaire illustrations shall be used as a guideline to help determine appropriate and inappropriate lighting fixtures, which offer different levels of shielding. Please note that these graphics do not represent a complete inventory of permitted and prohibited fixtures.

Prohibited Fixtures
(except as stated in Table 2)

Permitted Fixtures

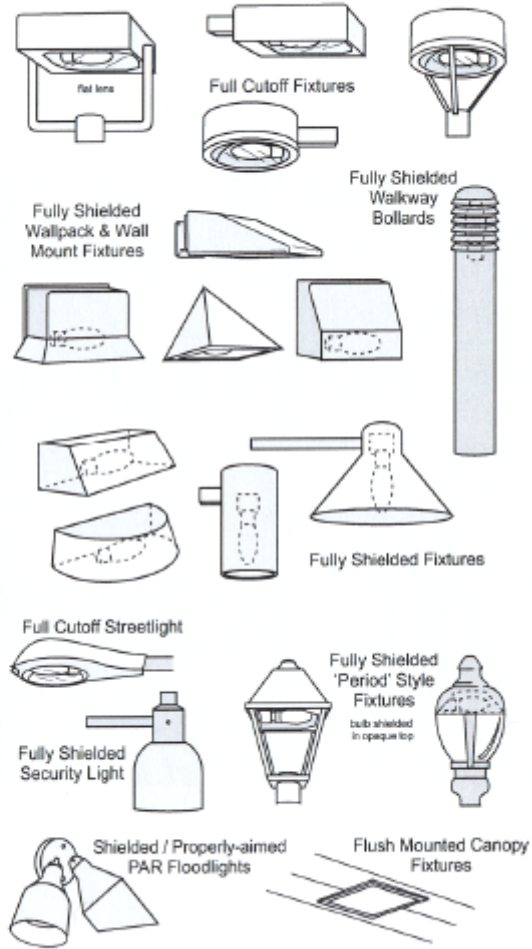
Unacceptable / Discouraged

Fixtures that produce glare and light trespass



Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



BC 9193