

Chapter 46 - ZONING⁽¹⁾

Footnotes:

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State Law reference— Michigan Zoning Enabling Act, MCL 125.3101 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.

ARTICLE I. - IN GENERAL

Sec. 46-1. - Preamble.

This chapter is established pursuant to the authority conferred by the Public Acts of the State of Michigan, and in such case is made and provided for the purpose of promoting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township by protecting and conserving the character and social and economic stability of the agricultural, residential, commercial, industrial, natural resources and other use areas; by securing the most appropriate use of land; preventing overcrowding the land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan.

(Zoning Ord. 1977, preamble; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-2. - Short title.

This chapter shall be known and may be cited as the Fabius Township Zoning Ordinance.

(Zoning Ord. 1977, art. I, § 100; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-3. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access property means a property, parcel, or lot abutting a lake or pond either natural or manmade, and used or intended to be used, for providing access to a lake or pond by pedestrian or vehicular traffic to and from offshore land regardless of whether said access is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form of dedication or conveyance.

Accessory use or *accessory* means a use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related. When the term "accessory" is used in this context, it shall have the same meaning as accessory use.

Adjusted parcel area means the net parcel area after the primary conservation area has been deducted from the gross parcel area.

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

Alteration means any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams, or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Animal feed lot means an enclosure where cattle, sheep, hogs, poultry, and/or livestock are retained for the sole purpose of fattening the same for subsequent slaughter, exclusive, however, of a natural pasture or similar area where the same graze or feed upon natural growth produced upon the same or contiguous land where the animals and/or poultry are retained.

Animal unit (animals per animal unit). For purposes of this chapter, the number of animals per animal unit shall be defined as follows:

Animal	Animal Unit
Cattle	1.00
Horses	1.00
Swine	0.50
Sheep/goats	0.50
Turkeys/ducks	0.04
Poultry/fowl	0.02

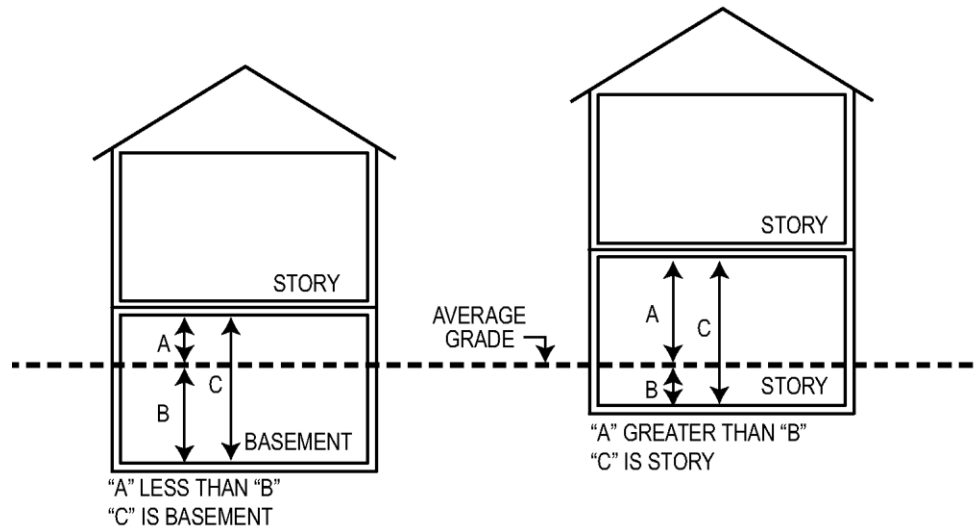
The equivalency of other types of animals not specifically listed above shall be that of the type listed which is most similar in terms of manure output, as determined by the Planning Commission. See also the provisions of applicable generally accepted agricultural management practices (GAAMPs); especially GAAMPs for site selection and odor control for new and expanding livestock production facilities, adopted June 1, 2000, which may govern.

Apartment means a suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

Auto repair station means a place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair, overall painting and undercoating of automobiles.

Basement means that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story. (See illustration.)

Basement and Story

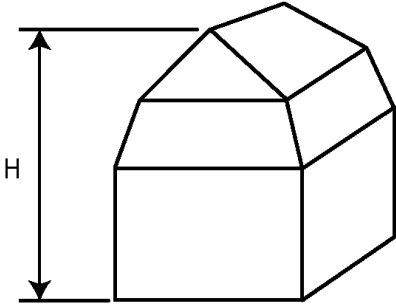


Block means the property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or stream; or between any of the foregoing and any other barrier to the continuity of development, or Township boundary lines of St. Joseph County.

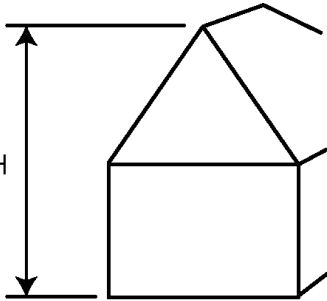
Building means a structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support, or enclosure of persons, animals, chattels, or property of any kind.

Building height means the vertical distance measured from the established grade to the highest point of the roof structure or parapet; normally the highest ridge for gable, gambrel, mansard, or hip roofs, the highest edge of a sloped flat or shed-style roof. An architectural projection from the roof, such as a church spire shall not be considered in calculating the height of a building. Antennae and chimneys projecting over the highest point of the roof structure or parapet shall not be considered in calculating the height of a building.

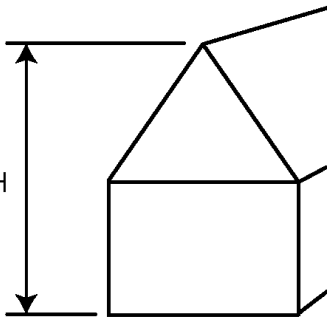
Building Height



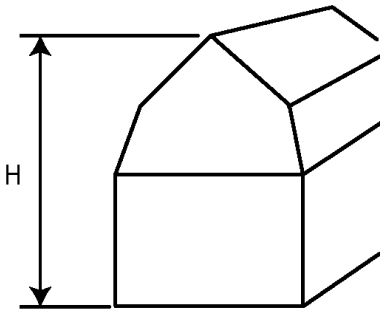
MANSARD ROOF



HIP ROOF



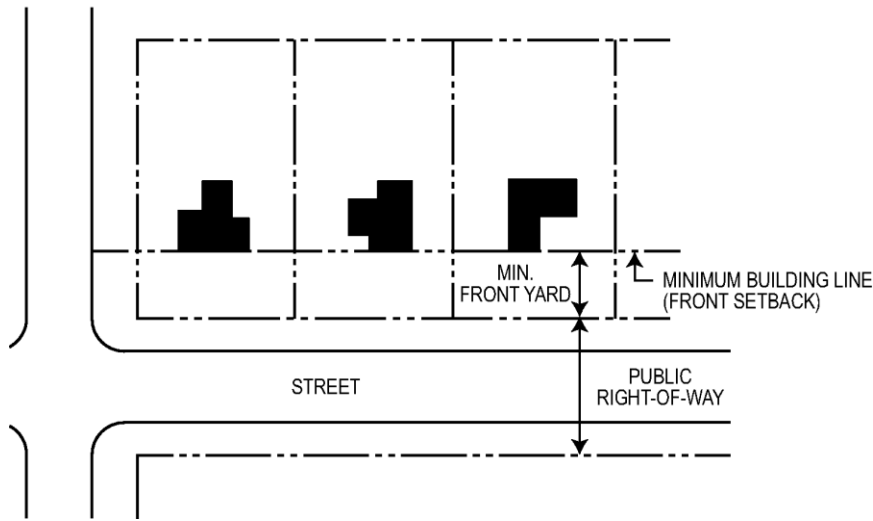
HIP ROOF



GAMBREL ROOF

Building line means a line formed by the face of the building, and for the purpose of this ordinance, a minimum building line is the same as a front setback line. (See illustration.)

Building Line



Club means an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

Commercial wireless telecommunications services means licensed commercial wireless telecommunication service including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and similar services that are marketed to the general public.

Convalescent or nursing home means a structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing, and medical care.

Development means the construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

District means a portion of the unincorporated area of the Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter. (See article III of this chapter, zoning districts and map.)

Drive-in means a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Dwelling, multiple-family, means a building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

Dwelling, one-family, means a building designed exclusively for and occupied exclusively by one family.

Dwelling, two-family, means a building designed exclusively for and occupied exclusively by two families living independently of each other.

Dwelling unit means a building or portion thereof, designed for occupancy by one family for residential purposes, having cooking facilities, sleeping areas, bathing facilities, and complying with the following standards:

- (1) It complies with the minimum square footage requirements of this chapter for the zoning district in which it is located.
- (2) Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those

imposed by the Township building code, then and in that event, such federal or state standard or regulation shall apply.

- (3) It is firmly attached to a permanent foundation constructed on the site in accordance with the Township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the State Mobile Home Commission.
- (4) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
- (5) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Local Health Department.
- (6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (7) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure creating continuous climate-controlled space and construction of a foundation as required herein.
- (8) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (9) The foregoing standards shall not apply to a mobile home located in a mobile home park except to the extent required by state or federal law or otherwise specifically required in article IV, division 3, subdivision VI of this chapter, MH Mobile Home Residential District.
- (10) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township building code provisions and requirements.

Erected means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

Essential services means the erection, construction, alteration, or maintenance by public utilities or Township departments or commissions, of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission or distribution systems, collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein) reasonably necessary, for the furnishing of adequate service by such public utilities or Township departments or commissions, or for the general public health, safety, or general welfare. This definition does not include towers or other buildings or structures intended specifically to service commercial wireless telecommunications such as cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging and similar services.

Excavation means any breaking of ground, except common household gardening and ground care, and agricultural purposes.

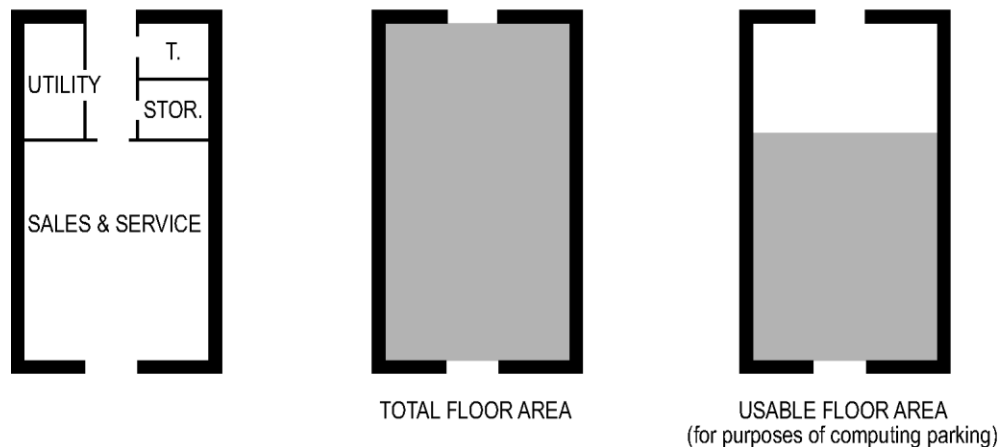
Exception, zoning. See *Zoning exceptions and variances* in this section.

Family means one or two persons or parents, with their direct lineal descendants and adopted or foster children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.

Farm means the carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.

Floor area, usable (for the purpose of computing parking), means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, customers or employees. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. (See illustration.)

Floor Area



Garage, attached means a garage that is attached to the primary structure or main building by means of a common wall or by means of a covered breezeway including a floor, walls (although walls may be screened), and roof structure. If the attached is by way of a breezeway then the maximum separation distance between the garage wall and the conditioned space of the primary building must be less than or equal to 25 feet.

Garage, private, means an accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage, service, means any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Gasoline service station means a place for dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

Grade means the ground elevation established for the purpose of regulating the number of stories and height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

Gross parcel area means total area of property being considered for development under the open space residential projects provisions of article V of this chapter.

Home occupation means an occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes. The term "home occupation" includes the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence.

Hotel means a building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial, or desk service, and bellboy service. The term "hotel" may include a restaurant or cocktail lounge, public banquet hall, ballroom, or meeting room.

Intensive livestock operation means any farm or farm operation engaged in raising, breeding, or feeding beef or dairy cattle, horses, swine, sheep, goats, poultry/fowl, turkeys, ducks, or other livestock in concentrations of 300 or more animal units, including any buildings, structures, excavations, or enclosed areas directly involved therein, including land used for pasture or feedlot purposes, and any animal waste storage structures, excavations, or areas directly connected to or associated with such operations. The number of animals per animal unit is defined elsewhere in this section under the term "animal unit." See also the provisions of applicable generally accepted agricultural management practices (GAAMPs), especially GAAMPs for site selection and odor control for new and expanding livestock production facilities, adopted June 1, 2000, which may govern.

Junkyard means an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. The term "junkyard" includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel means any lot or premises on which three or more dogs, cats, or other household pets are either permanently or temporarily boarded for remuneration. The term "kennel" shall also include any lot or premises where household pets are bred and sold.

Loading space means an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise and materials.

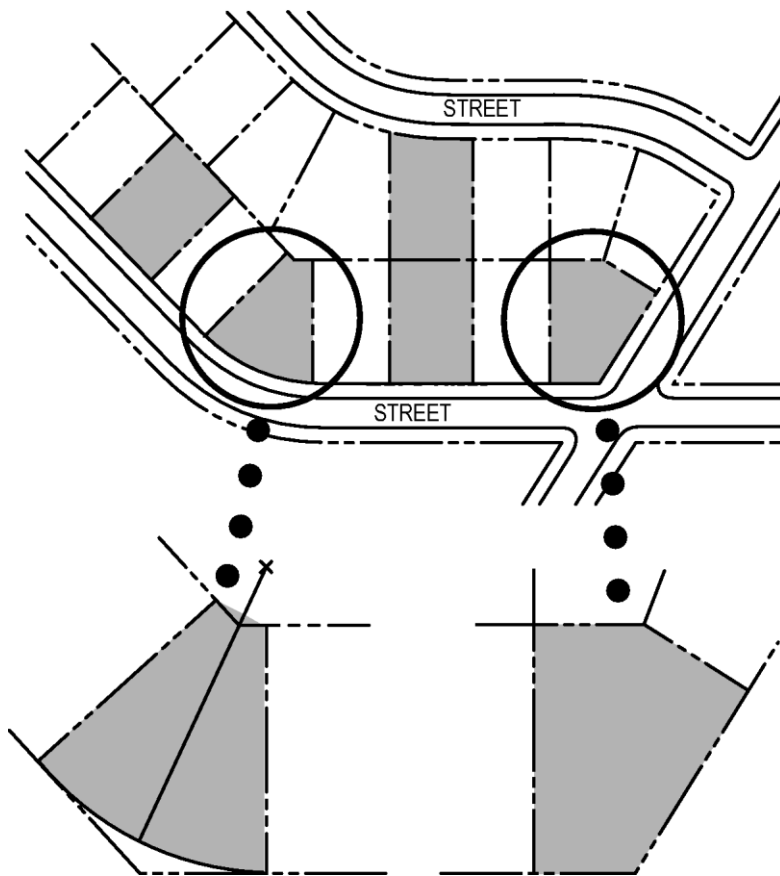
Lot means a parcel of land occupied, or intended to be occupied by a main building or group of such buildings and accessory buildings, when such buildings are under single ownership and when permitted under the provisions of this chapter, or utilized for the principal uses and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records.

Lot, corner, means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight line extended, form an interior angle of less than 135 degrees. (See illustration.)

Lot, interior, means any lot other than a corner lot.

Lot, through, means any interior lot having frontage on two more or less parallel streets, as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of such streets adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Interior, Through, & Corner Lots



Lot, zoning, means a single tract of land, located within a single block, which, at the time of filing for a building permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this chapter with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record.

Lot area means the total horizontal square footage of the lot or parcel within the lot lines of the lot or parcel.

Lot coverage means the part or percent of the lot occupied by all building footprints including accessory buildings as measured to the building lines.

Lot depth means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot line means the line bounding a lot as defined herein:

- (1) *Front lot line*—In the case of an interior lot, the line separating said lot from the street (known as the right of way line), in the case of a corner lot or double frontage lot, the line separating said lot from that street which is designed as the front street in the plot and the request for zoning compliance permit. In the case of lots bordering on a lake, river, stream, pond or canal, the established water or shoreline shall be designated as the front of such lots.

- (2) *Rear lot line*—The lot line opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Side lot lines*—Any lot lines other than the front lot lines or the rear lot line. A side lot line separating a lot from a street is a "side street" lot line. A side lot line separating a lot from another lot or lots is an "interior side" lot line.

Lot of record means a parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by municipal or county officials and which actually exists as so shown or any part of such parcel held in record ownership separate from that of the remainder thereof.

Lot width means the required distance between the side lot lines, measured in a straight line at the two points where the required front setback intersects the side lot lines. For lots located on the turning circle of a cul-de-sac, the lot width may be reduced to 80 percent of the required lot width.

Main building means a building in which is conducted the principal use of the lot upon which it is situated.

Major thoroughfare means an arterial street which is intended to serve as a large volume trafficway for both the immediate county area and the region beyond.

Master plan means a generalized graphic community plan indicating the general location for streets, parks, public buildings, and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

Mezzanine means an intermediate floor in any story occupying not to exceed 30 percent of the floor area of such story. (See illustration.)

Mobile home means 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.

Mobile home park (trailer court) means any plot of ground upon which three or more mobile homes occupied for dwelling or sleeping purposes are located.

Motel means a series of attached, semi-detached, or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

Nonconforming building means a building or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived (December 13, 1977) or amendments thereto, and that does not conform to the provisions of this chapter for the district in which it is located.

Nuisance factor means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics or activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to:

- (1) Noise.
- (2) Dust.
- (3) Smoke.
- (4) Odor.
- (5) Glare.
- (6) Fumes.
- (7) Flashes.

- (8) Vibration.
- (9) Heat.
- (10) Electronic or atomic radiation.
- (11) Objectionable effluent.
- (12) Noise or congregation of people, particularly at night.
- (13) Passenger traffic.
- (14) Invasion of non-abutting street frontage by traffic.

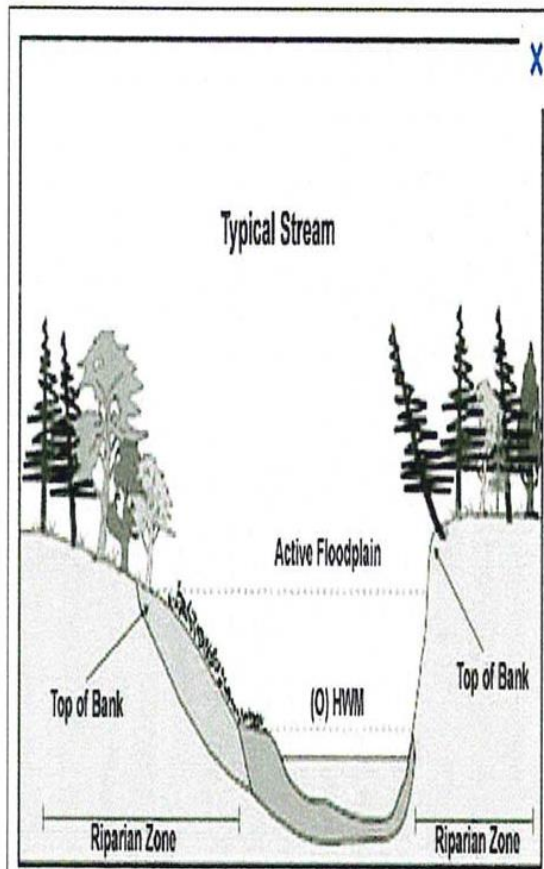
Nursery, plant materials, means a space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this chapter does not include any space, building, or structure used for the sale of fruits, vegetables, or Christmas trees.

Off-street parking means a facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than three vehicles.

Open front store means a business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

Open space means the combined area of primary and secondary conservation areas within an open space residential project development, not individually owned, which is designed and intended to conserve environmental features for the common use or enjoyment of the residents of the development or the public. Such open space may contain accessory structures and improvements appropriate for recreational purposes, as provided by division 5 of article IV of this chapter.

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



Parking space means an area of definite length and width, said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Permitted uses means principal and accessory uses as listed in this chapter for particular zoning districts that may be carried on within the districts in accordance with any standards, conditions, or requirements as listed in this chapter, subject in most cases to the issuance of a building or other permit by the Township Zoning Administrator. Uses which are permitted uses in a particular zoning district may not be permitted at all in another, or may be permitted as a special exception use if so approved by the Planning Commission. (See *Special exception uses*.)

Primary conservation area means sensitive environmental features that are deducted from the gross parcel area to produce the adjusted parcel area. lands to be deducted include wetlands, inundated lands, (lakes, ponds, streams, drains) lands within a 100-year floodplain, and slopes exceeding 18 percent grade.

Recycling facility is a facility designed and operated solely for receiving, storing, and transferring source-separated recyclable materials such as paper, metal, glass, food waste, office paper and plastic that are kept separate and apart from residential, commercial, and institutional solid waste by the generator of the waste for the purposes of collection, disposition, and recycling

Room means, for the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room, or bedroom that is equal to 80 square feet in area for each room. The term "room" shall not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing one-, two-, or three-bedroom units and including a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Secondary conservation area means a minimum of 50 percent of the adjusted parcel area which may consist of upland buffers of natural species for wetlands and surface waters, including lakes, ponds, and natural drainageways, other natural or cultural features including, but not limited to mature woodlands, wildlife habitat areas, prime farmland, historic sites, and/or scenic views from public rights-of-way designated for conservation.

Setback means the distance required to obtain minimum front, side or rear yard open space provisions of this chapter.

- (1) *Front setback* is the minimum required horizontal distance between the front lot line and the building line. The front setback on parcels bordering a lake, river, stream, pond, or canal is the side bordering the lake, river, stream, pond or canal.

Shooting range means any facility indoor or outdoor, whether operated for profit or not, and whether public or private, or used for law enforcement firearms training, which is designed for the use of firearms, archery which are aimed at targets, skeet or trap. "Paintball" which is a recreational activity in which balls of paint are shot at targets or moving objects and people from specialized "paintball guns" is also included in this definition. This definition shall not apply to the occasional shooting activities (clay target thrower, target shooting) undertaken by a property owner or tenant for personal enjoyment and contained within the property boundaries.

Sign means a device, structure, painting, fixture or placard using color, graphics, symbols, and/or written copy designed and/or utilized for the purposes of advertising or identifying any event, establishment, product, good, service or displaying or depicting other information.

The following definitions relate to signs:

- (1) *Abandoned sign* means a sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product or activity and/or for which no legal owner can be found.
- (2) *Accessory sign* means a sign relating in subject matter to the main or principal use of the premises.
- (3) *Animated sign* means a sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display.
- (4) *Awning, canopy or marquee* means a permanent retractable or fixed shelter constructed of non-rigid material on a supporting framework that projects from the exterior wall of a building.
- (5) *Awning, canopy or marquee sign* means letters, numerals or other drawings painted on, printed on or attached to the surface of an awning, canopy or marquee.
- (6) *Banner sign* means a temporary sign intended to be hung either with or without frames, possessing letters, characters, illustrations or ornamentation applied to paper, plastic, or fabric of any kind.
- (7) *Beacon* means any light with one or more beams directed into the atmosphere or directed at one or more point not on the same lot as the light source; also, any light with one or more beams that rotate or move.
- (8) *Billboard*: See off-premise sign.
- (9) *Building marker* means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material and attached to the structure.
- (10) *Commercial message* means any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.
- (11) *Construction sign* means a sign which displays the name or names of principal contractors, architects, lending institutions, and/or others responsible for construction on the site where the sign is located.

- (12) *Copy* means the wording on a sign surface in either permanent form, manual changeable copy form or electronic changeable form.
- (13) *Copy, electronic changeable* means the wording on a sign that contains letters, symbols, figures, depictions, and/or numbers that can be electronically or digitally changed or that do change electronically or digitally. Such signs can utilize digital, LED or electronic technology.
- (14) *Copy, manual changeable* means the wording on a sign that contains, letters, symbols, figures, depictions and/or numbers that can be manually removed and replaced.
- (15) *Copy, permanent* means the wording on a sign that contains letters, depictions and/or numbers that is permanent in nature.
- (16) *Development sign/building identification sign* means a sign that identifies a development or building by its recognized name, not including a product or service.
- (17) *Digital sign/digital billboard* means a digital sign or digital billboard which usually consists of (or has a portion comprised of) a computer or playback device connected to a large, bright digital screen such as an LCD, LED, computer, plasma or similar display. Such signs can utilize electronic changeable copy.
- (18) *Directional sign* means a sign that gives directions, instructions or facility information for the use on the lot on which the sign is located. A directional sign shall not contain advertising display copy and shall be located on the property where the development is located.
- (19) *Directory sign* means a sign that displays only the names and locations of occupants or the uses of a building, but without advertising display copy.
- (20) *Façade* means the entire building front including the parapet.
- (21) *Face of sign (sign face)* means the area of a sign on which the copy or display is placed.
- (22) *Farm business sign* means a sign advertising the location of a farm or business associated with that farm, such as a farmer's market, road side stand or the farm name.
- (23) *Festoons* means a string of ribbons, tinsel, flags, pennants or pinwheels.
- (24) *Flag* means any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government or political subdivision.
- (25) *Freestanding sign* means a sign structurally separated from a building.
- (26) *Gateway sign* means a sign erected by a non-profit entity or a service organization identifying a community, a community organization and/or community activity
- (27) *Gas or air filled balloon sign* means a sign that is made of a nonporous bag of tough, light material filled with gas or air used to convey advertising copy or announce a special event on a temporary basis.
- (28) *Government sign* means a sign erected by Fabius Township, St. Joseph County, the state of Michigan, any other municipal entity and/or the federal government.
- (29) *Ground sign/monument sign* means a freestanding sign supported by a base that rests directly on the ground. The width of the base shall be at least 50 percent of the sign in order to be a ground sign.
- (30) *Home occupation sign* means a sign that identifies a home occupation that is operating on a residential property and is classified as a home occupation per the requirements of this chapter and has received all necessary approvals for such use.
- (31) *Illuminated sign* means a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

- (32) *Industrial park sign/business park sign* means a freestanding sign that identifies the name of an industrial park, business park or other similar land use, but does not contain advertising copy of any business located within that park.
- (33) *LCD* means liquid crystal display.
- (34) *LED* means light emitting diode.
- (35) *Mansard* means a sloped roof or roof-like façade architecturally comparable to a building wall.
- (36) *Mobile home park identification sign* means a ground or monument sign identifying or recognizing a mobile home park development.
- (37) *Nameplate* means a non-electric on-premise sign giving only the name, address, and/or occupation of an occupant or group of occupants, which does not contain graphics of any kind.
- (38) *Negative space* means the open space surrounding words, numbers or other text on a sign.
- (39) *Neon sign* means an illuminated sign constructed from fluorescent lights in the form of bent glass tubes; the different colors being obtained by adding different gases to the neon.
- (40) *Non-conforming sign* means a sign was lawfully erected prior to this chapter, or amendment thereto, but that does not conform to this chapter or other applicable Township ordinances. Also known as a lawful non-conforming sign.
- (41) *Noncommercial message* means any sign wording, logo or other representation that is not a commercial message.
- (42) *Off premise directional sign* means a sign, not to exceed 100 square feet in area, the sole purpose of which is to direct the public to a place of business located off the premises from where the sign is located.
- (43) *Off premise sign* means a sign which advertises or designates an establishment, service, merchandise, use, entertainment, activity, produce or message which is not conducted, sold, produced, manufactured or furnished upon the parcel or lot where the sign is located (e.g. billboards, off premise directional sign).
- (44) *Parapet* means a wall-like barrier at the edge of a roof or structure.
- (45) *Pennant* means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
- (46) *Permanent sign* means a sign which is permanently affixed into the ground or a building and meets the requirements of a structure under the Michigan Building Code or its successor code.
- (47) *Point of sale sign* means a sign that carries only the name of the firm, major enterprise or products offered for sale on the premises.
- (48) *Pole or pylon sign* means a sign which is erected upon or supported by the ground on one (1) or more poles, uprights or braces.
- (49) *Portable freestanding sign* means a reusable and movable sign not permanently affixed in the ground or to a structure or building, typically containing changeable copy. Except as otherwise expressly provided for in this Ordinance, such sign shall only advertise, reference, identify or promote a product, service, business or event occurring on the lot or parcel where the sign is located.
- (50) *Political sign* means a temporary sign used in connection with a noncommercial message or an official Township, school district, county, state or federal election or referendum.
- (51) *Projecting sign* means a sign that is attached to and projects from a wall or other structure not specifically designed to support the sign.

- (52) *Real estate sign* means a temporary sign advertising the real estate upon which the sign is located as being for sale, lease or rent.
- (53) *Roofline* means the top edge of a roof or building parapet, whichever is higher, excluding any cupolas, chimneys or minor projections.
- (54) *Roof sign* means a sign which is erected or constructed wholly upon or above the roof of a building and supported on the roof structure.
- (55) *Sidewalk sign* means a sign placed on a sidewalk adjacent to a business that advertises daily or weekly specials. Examples of a sidewalk sign include A-frame signs and sandwich board signs.
- (56) *Sign owner* means a person who owns a sign. The owner of the premises upon which a sign is located is presumed to be the sign owner, unless facts showing someone else to be the sign owner are submitted to the Zoning Administrator and the Zoning Administrator makes a decision that the sign belongs to someone other than the owner of the premises.
- (57) *Snipe sign* means any sign of any size, made of any material, which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, fences or other objects and the advertising matter appearing thereon is not applicable to the premises upon which the sign is located.
- (58) *Street banner sign* means a sign that is stretched across and hung over a street or road right-of-way or easement.
- (59) *Subdivision or site condominium advertising sign* means a sign advertising available lots and/or units within a subdivision or condominium development, including residential, commercial or industrial developments.
- (60) *Subdivision or site condominium identification sign* means a ground or monument sign identifying or recognizing a subdivision or condominium development, including residential, commercial or industrial developments.
- (61) *Vehicle sign* means a sign containing a commercial message that is painted on, incorporated in, or attached directly to any mode of transportation, including, but not limited to automobiles, trucks, boats, trailers, or airplanes. A sign painted on a vehicle identifying the business owning or using the vehicle, or a sign depicting the name of the owner of the vehicle is not considered a vehicle sign.
- (62) *Wall sign or building sign* means a sign, including painted, individual letters, and cabinet signs, and signs on a mansard that are attached parallel to and extending not more than fifteen (15) inches from the wall of a building.
- (63) *Wayfinding sign* means signs, maps and other graphic methods used to convey location and direction to travelers.
- (64) *Window sign* means a sign placed inside or upon a window facing the outside which is intended to be seen from the street or road right-of-way or the outdoors.

Single loaded street or road means a street or road, usually one-way, that has dwellings or other structures situated on only one side of the road, the other side often being designated open space, as in an open space residential project.

Solar means of or relating to the sun.

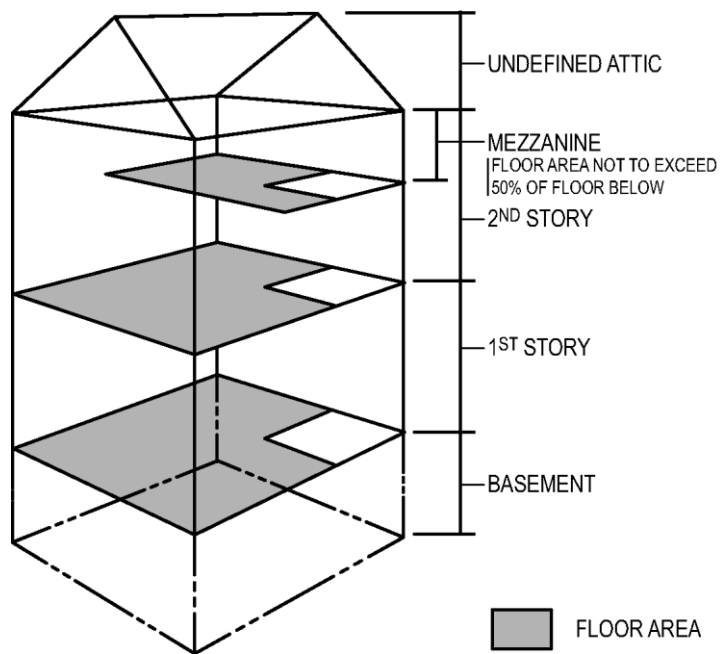
- (1) *Accessory use solar energy system* means an accessory use solar energy system is any solar energy system where the primary use of the land is something other than the solar energy system. Such as a residence or business planning a solar energy system to be constructed on the same site. Accessory use systems may be found mounted on structures that have different uses or near structures that have different uses.
- (2) *Array (solar)* means any number of solar modules or panels connected, whether by photovoltaic devices, concentrating solar thermal devices, or any other various solar technologies, to provide a single electrical output level required for any given system.

- (3) *Module/Panel (solar)* means several individual solar cells connected in an environmentally protected housing producing a standard output voltage and power. Multiple modules / panels can be assembled into an array for increased power and/or voltage.
- (4) *Photovoltaic device (solar)* means a system of components that generate electricity from incident sunlight by means of the photovoltaic effect.
- (5) *Primary use solar energy system* means a primary solar energy system is any solar energy system where the primary use of the land is for the solar array and its associated structures.
- (6) *Storage (solar)* means a system of components that can store energy for later use.

Special exception uses means principal and accessory uses as listed in this chapter for particular zoning districts that may be carried on within the district when authorized by the Planning Commission after considering the standards and requirements as listed for each such use, and in accordance with the provisions of article VII, conditional use purposes and standards, of this chapter. Building or other permits for such uses shall not be issued until such special exception use permits are granted by the Planning Commission. As used in this chapter, the terms "conditional use," "exceptional use," "special use," "special exception use," and "special land use" are synonymous.

Story means that part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than 50 percent, by cubic content, is below the grade (ground elevation). (See illustration.)

Basic Structural Terms



Story, half, means an uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purposes of this chapter, the usable floor area is only that area having at least four feet clear height between the floor and ceiling.

Street means any public or private road, avenue, boulevard, drive, lane, thoroughfare, highway, court or private easement not including an alley, which affords the principal means of access to and egress from the property abutting along its length.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, independently supported decks, and satellite dishes; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities as defined in essential services.

Temporary use or building means a use or building permitted by the Zoning Administrator to exist during periods of construction of the main building, or for special events.

Trailer coach means any vehicle designed, or constructed so as to permit its being regularly used as a conveyance upon the public streets or highways and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.

Tower means any ground or roof mounted pole, spire, structure or combination thereof taller than 15 feet, including support lines, cables, wires, braces, and masts intended primarily for the purpose of mounting antennas, meteorological devices, or similar devices above grade.

Use means the principal purpose for which land or a building is arranged, designated or intended, or for which land or a building is or may be occupied.

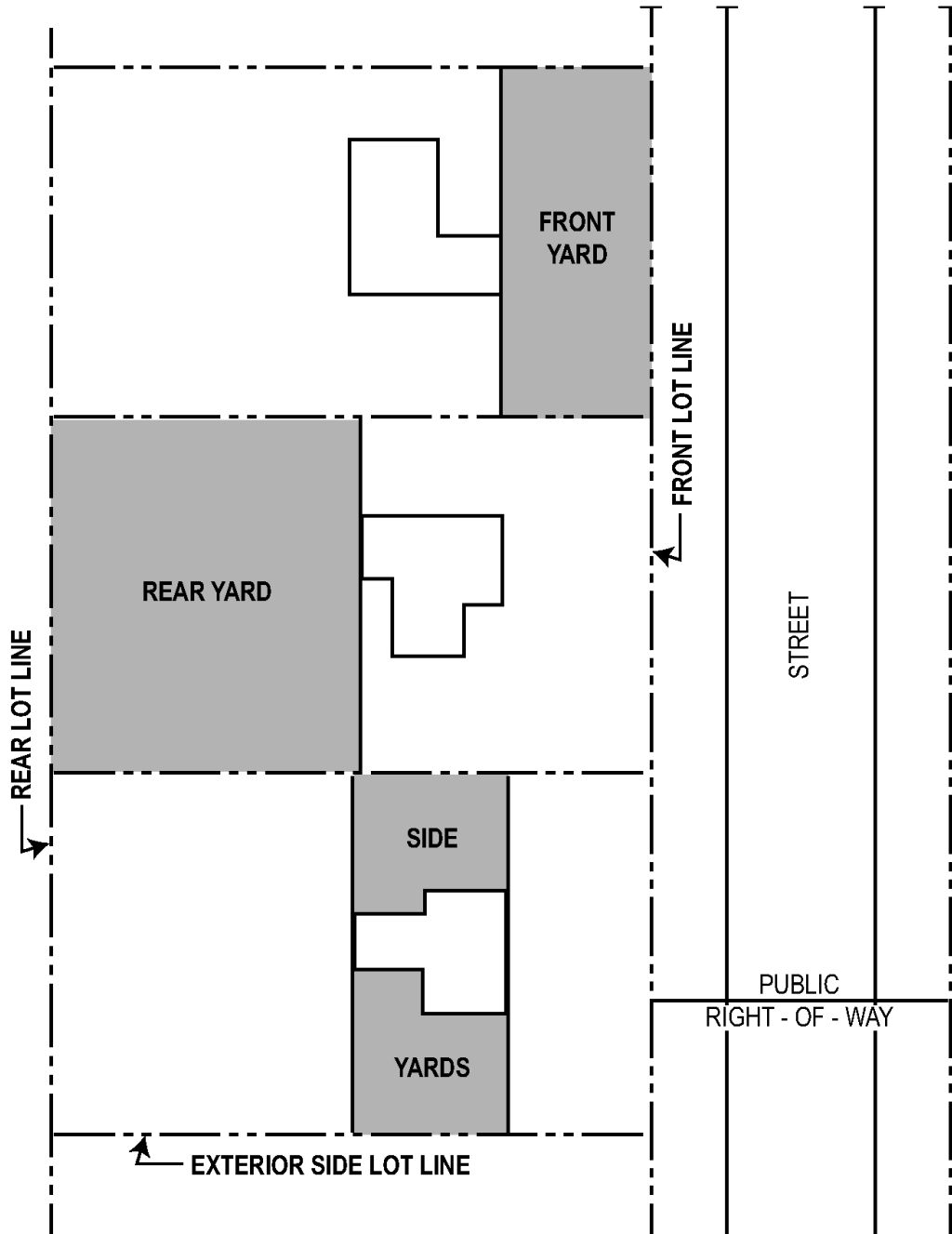
Variance. A variance may be granted from the strict application of the provisions of this chapter whereby by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property on December 13, 1977, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations would result in peculiar or exceptional practical difficulties to the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the ordinance. In order for the Board of Appeals to grant a variance, the applicant must show that the problem is not self-created. In granting a variance, the Board of Appeals shall state the grounds upon which it justifies the granting of the variance and may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purposes of this chapter.

Wall, obscuring means a structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

Yard(s) means the area of each lot or parcel in which no building or structure shall be erected. The size of such area is determined by the distance from the front lot line and the side and rear property lines to the building lines.

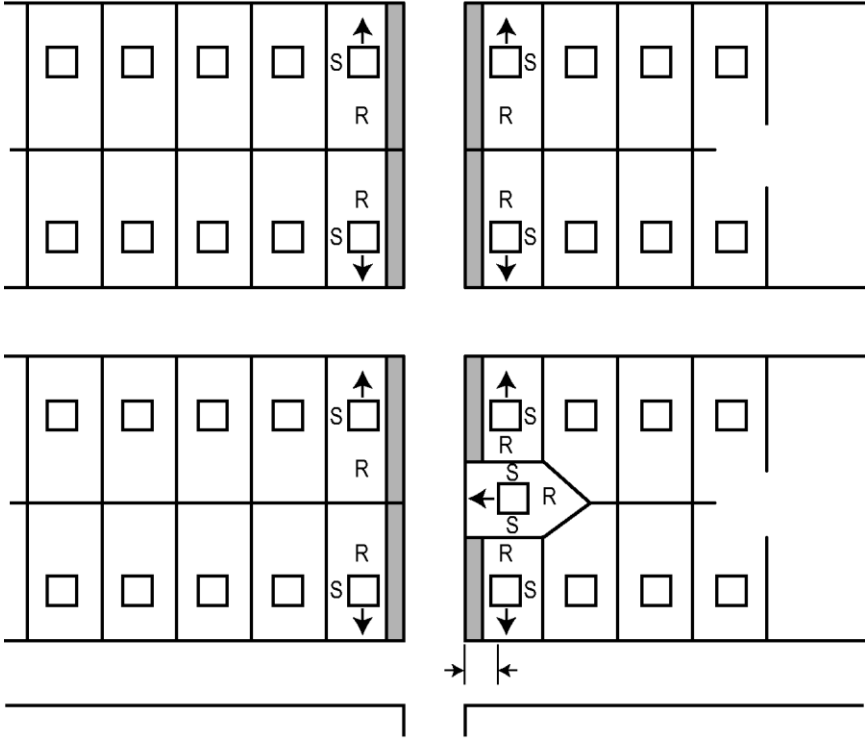
- (1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. (See illustration.) Also see lot line, front lot line, for special conditions in LR Lake Residential Districts, where the front yard is the lake or water side.
- (2) *Rear yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. (See illustration.)
- (3) *Side yard* means an open space between a main building and the side lot line, extending between the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building. (See illustration.)

Yards



In the case of a rear yard abutting a side yard, the side yard abutting a street shall not be less than the minimum side yard of the district in which located. (See diagram.)

Side Yards Abutting Streets



- REQUIRED SETBACKS - CORNER LOT
- FRONT YARD
- R REAR YARD
- S SIDE YARD

(Zoning Ord. 1977, art. II, § 201; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 25, 10-1-1982; Ord. No. 52, 11-10-1993; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998; Ord. No. 72, 6-26-1999; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 112, 3-26-2006; Ord. No. 137, § 1, 2-8-2012; Ord. No. 142, § I, 9-10-2014; Ord. No. 144, § II, 8-12-2015; Ord. No. 154, § I(A—D), 1-9-2019; Ord. No. 163, § 3, 1-8-2020; Ord. No. 164, § I(A, B), 2-12-2020)

State Law reference— Definitions, MCL 125.3102.

Sec. 46-4. - Construction of language.

The following rules of construction apply to the text of this chapter:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

- (3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
- (4) A building or structure includes any part thereof.
- (5) The term "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

(Zoning Ord. 1977, art. II, § 200; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-5. - Interpretation.

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this chapter to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be issued or adopted pursuant to the law relating to the use of buildings or premises.

(Zoning Ord. 1977, art. XVIII; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

State Law reference— Conflicts between zoning and other ordinances, MCL 125.3210.

Sec. 46-6. - Vested rights.

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

(Zoning Ord. 1977, art. XIX; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-7. - Violations, penalties, and other remedies.

(a) *Infractions and fines.*

- (1) Any person, firm, or corporation or other entity who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this chapter shall be responsible for a municipal civil infraction and shall pay a fine according to the following schedule:

First offense	\$ 75.00
Second offense within 3 years	150.00
Third offense within 3 years	325.00
Fourth offense within 3 years	500.00

- (2) If a determination of responsibility is made by the court, the court may impose costs as provided for by law in addition to the fines called for above.
- (3) The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

State Law reference— Authority to make ordinance violation a municipal civil infraction, MCL 125.3407; municipal civil infractions, MCL 600.8701 et seq.

- (b) *Public nuisance per se.* Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of the ordinance from which this chapter is derived (December 13, 1977) and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court or competent jurisdiction.

State Law reference— Similar provisions, MCL 125.3407.

- (c) *Owner's responsibility.* The owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.
- (d) *Rights and remedies are cumulative.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Zoning Ord. 1977, art. XXII, §§ 2200—2204; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000)

Sec. 46-8. - Changes and amendments.

The Township Board may, from time to time, on recommendation from the Planning Commission, amend, supplement, or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in the Michigan Zoning Enabling Act (MCL 125.3101 et seq.).

(Zoning Ord. 1977, art. XX; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

State Law reference— Amendments, MCL 125.3401 et seq.

Sec. 46-9. - Reserved.

Editor's note— Ord. No. 144, § 1, adopted Aug. 12, 2015, repealed former § 46-9, in its entirety which pertained to general exceptions to the regulations of this chapter and derived from Zoning Ord. 1977, art. XV, § 1500; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997

Secs. 46-10—46-44. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 46-45. - Enforcement officers designated.

The provisions of this article shall be administered and enforced by the Zoning Administrator or by such deputies of this department as the Zoning Administrator may delegate to enforce the provisions of this article.

(Zoning Ord. 1977, art. XVI, § 1600; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-46. - Duties of Zoning Administrator.

- (a) The Zoning Administrator shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this article. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he or she has inspected such plans in detail and found them to conform with this article.
- (b) Under no circumstances is the Zoning Administrator permitted to make changes to this article nor to vary the terms of this article in carrying out his or her duties as Zoning Administrator.
- (c) The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this article are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of said permit.
- (d) In cases where the determination of a particular property line and/or monument is not readily discernable or where an exact measurement is required, the Zoning Administrator shall have the right and ability to require an official survey to be provided by the applicant.
- (e) In any situation where the dimensions, area, or size are disputed or are contradictory from multiple sources a survey conducted by a registered professional surveyor shall govern above all other sources of information including tax records.

(Zoning Ord. 1977, art. XVI, § 1601; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 144, § IV, 8-12-2015; Ord. No. 154, § II, 1-9-2019)

Sec. 46-47. - Nonconforming lots, structures, and uses; repairs and maintenance; and changes of tenancy or ownership.

- (a) *Intent.* It is the intent of this article to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.
 - (1) It is recognized that there exist within the districts established by this article and subsequent amendments, lots, structures and uses of land and structures which were lawful before this article was passed or amended which would be prohibited, regulated, or restricted under the terms of this article or future amendments. Such uses are declared by this article to be incompatible with permitted uses in the districts involved. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
 - (2) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this article by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.
 - (3) To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this article and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the

placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the demolition or removal of the building involved and the subsequent rebuilding.

(b) *Nonconforming lots and parcels.*

(1) *Nonconforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this article, a single-family dwelling and customary accessory building(s) may be erected on any single lot of record at the effective date of adoption or amendment of this article. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Board of Appeals.

(2) *Nonconforming parcels.* Any existing parcel as of the effective date of the ordinance from which this chapter is derived (December 13, 1977) may be used for any principal use in the zoning district in which it is located whether or not such lot complies with the lot area requirements. Such use may be made, provided that all other requirements other than parcel area are complied with, and provided that no more than one dwelling unit shall occupy any such parcel.

(c) *Nonconforming uses of land.* Where, at the effective date of the adoption or amendment of the ordinance from which this article is derived, lawful use of land exists that is made no longer permissible under the terms of this article as enacted and amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this article; the Zoning Board of Appeals shall have the right to grant variances from the foregoing in specific hardship situations.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the adoption or amendment of this article.

(3) If such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of the land shall conform to the regulations specified by this article for the district in which such land is located.

(d) *Nonconforming structures.* Where a lawful structure exists at the effective date of the adoption or amendment of the ordinance from which this article is derived that could not be built under the terms of this article by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increases its nonconformity. Such structure may be enlarged or altered in a way which does not increase its nonconformity. The Zoning Board of Appeals shall have the right to grant variances from the foregoing in specific hardship situations.

(2) A lawfully nonconforming structure which is damaged or destroyed by Acts of God out of the control of the owner such as wind storm, natural disaster, tornado or earthquake may be reconstructed on the same footprint and/or size foundation as it previously existed prior to the destruction.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(e) *Nonconforming uses of structures and land.* If a lawful use of a structure and land in combination exists at the effective date of the adoption or amendment of the ordinance from which this article is

derived that would not be permitted in the district under the terms of this article, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this article in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this article, but no such use shall be extended to occupy any land outside such building.
 - (3) If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or more restricted classification provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this article. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
 - (4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
 - (5) When a nonconforming use of a structure, or structures and land in combination, is discontinued or ceases to exist for six consecutive months, or for 18 months during any three-year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal use shall be excepted from this provision.
 - (6) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- (f) *Repairs and maintenance.* On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 50 percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this article shall not be increased. The foregoing 50 percent limitation shall not be construed to pertain to buildings destroyed by fire or other calamities. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (g) *Reserved for expansion.*
- (h) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing uses of land, structures, or land and structures in combination.

(Zoning Ord. 1977, art. XIV, § 1405; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 144, §§ III, IV, 8-12-2015)

State Law reference— Nonconforming uses and structures, MCL 125.3208.

Secs. 46-48—46-67. - Reserved.

DIVISION 2. - SITE PLAN REVIEW^[2]

Footnotes:

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State Law reference— Site plans, MCL 125.3501.

Sec. 46-68. - Intent.

The intent of this division is to provide for consultation and cooperation between land owners/developers and the Township so that developers may accomplish their objectives in land utilization within the provisions of this chapter and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

(Zoning Ord. 1977, art. XIII, § 1300; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-69. - General policies and requirements.

- (a) *Building permits.* Except as hereinafter set forth, the Township shall not issue a building permit for construction or enlargement of any buildings, structures or uses until a site plan, submitted in accordance with this division, shall have been reviewed and approved by the Planning Commission.
- (b) *Exceptions.* Site plans and site plan review shall be required for all uses except the following:
 - (1) Single- and two-family dwellings under separate ownership on an individual and separate lot for each home including driveways serving them.
 - (2) Residential and agricultural accessory buildings.
 - (3) Projects involving expansion, remodeling, or enlargement of existing buildings which comply fully with all requirements of this article and involve no new or additional means of access from adjoining public streets, roads, or highways.

(Zoning Ord. 1977, art. XIII, § 1301; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

Sec. 46-70. - Effective period.

An approved site plan shall be effective for a period of one year or the life of a building permit obtained pursuant to the approved site plan, which ever is longer. If construction is not commenced within the period that the site plan is effective, no construction shall take place unless an extension has been approved by the Planning Commission, providing that there is compliance with all applicable site plan requirements that are in effect at the time the extension is granted.

(Zoning Ord. 1977, art. XIII, § 1302; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

Sec. 46-71. - Procedures.

- (a) *Optional sketch plan review.* In order that developers may be better informed regarding the conformity and acceptability of their proposed plans prior to incurring extensive design, engineering, and other costs involved in preparing a final site plan, preliminary sketches of the proposed site and development plans may be submitted to the Planning Commission for preliminary review and discussion. Any preliminary guidance given by the Planning Commission at this stage is intended to be helpful to the applicant, but views expressed by commissioners at this stage are not to be construed as approvals binding on the Planning Commission. Such sketch plans should include, as a minimum, the following:
- (1) Names and addresses of the applicants and/or developers, including the appropriate officers of a corporation or members of a partnership, if applicable.
 - (2) A legal description of the property, its property number as used in the tax rolls, and its street address location.
 - (3) Sketch drawing showing proposed site and development plans, including planned dimensions, set backs, etc.
- (b) *Site plan review application procedure.* Requests for site plan review shall be made by filing with the Township Zoning Administrator, at least 15 days prior to the meeting of the Planning Commission at which the site plan will be reviewed, the following:
- (1) Ten copies of a completed site plan review application form obtainable from the Township Zoning Administrator, which provides for the furnishing of the following information: names and addresses of applicants, street address, property number, and legal description of the land or property involved; area of the land in acres, or in square feet if less than two acres; present zoning classification of the land; current ownership status; and a general description of the proposed development in specific terms.
 - (2) A site plan review fee according to the current schedule of fees as determined by the Township Board.
 - (3) Ten copies of the proposed site plan containing the following information, except that for special uses on residential lots with a principal single-family building, one or more of the required items in subsections (b)(4)a through m of this section may be waived. Such waivers may be made by the Planning Commission by prior consultation, such as during the optional sketch plan review.
 - (4) *Site plan requirements.* Unless approved as a minimum requirement plan by the Planning Commission in accordance with subsection (b)(4)d of this section, all site plans submitted for approval shall show:
 - a. An appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual and firm which prepared the plan. For property of three acres or less, scale shall be no smaller than one inch equals 20 feet; for property of more than three acres, scale shall be no smaller than one inch equals 50 feet.
 - b. All lot and/or property lines, properly dimensioned, including building set back lines and existing easements and rights-of-way, if any.
 - c. The location and height of all existing and proposed structures on the property and on adjacent properties within 100 feet of the property line, to include dimensions of proposed buildings as well as gross and usable floor space in square feet for each.
 - d. The locations and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, parking areas, (including a typical parking space) unloading areas, and recreation areas. (Parking provisions shall be in accordance with sections 46-685 through 46-687.) Evidence of approval for curb openings and drives on a state highway or county road from the appropriate commission shall also be provided.
 - e. The location of both pavement and right-of-way widths of all abutting roads, streets, and alleys.
 - f. The name, address, and telephone number of the property owner(s) and/or applicant.

- g. The location and size of all existing and proposed utilities.
 - h. The location, size, and capacity of all surface drainage facilities.
 - i. Existing and proposed contours at a minimum interval of two feet, unless otherwise prescribed by the Planning Commission.
 - j. The location and type of all planned landscaping, green belts, or other required screening; location, height, and type of proposed fences and/or walls; location of all rubbish receptacles. (See section 46-654, plant materials, and section 46-656, walls.)
 - k. For those buildings, uses, or facilities which will be used or be available to the public for the purposes of education, employment, housing (other than privately owned one or two-family dwellings) transportation, or recreation; or for the sale, purchase, rental, or acquisition of goods and services, the name and address of the professional individual responsible for preparing the site plan, together with the imprint of his or her professional seal.
 - l. For multiple family developments, typical elevation views of the front and side of each type of proposed building, as well as dimensioned typical floor plans for each type.
 - m. If applicable, a summary schedule which gives the following information:
 - 1. The number of dwelling units proposed, to include the number, size, and location (by legend, if necessary) of one-bedroom units, two-bedroom units, mobile home sites, etc.
 - 2. The residential area of the site in acres and in square feet, including breakdowns for any sub-areas or staging areas.
- (c) *Minimum requirements.* If approved by the Planning Commission, site plans satisfying the requirements of subsections (b)(4)a, b, c and f of this section.
- (d) *Site plan review.* In addition to review by its members, the Planning Commission shall routinely have proposed site plans reviewed by the Township Attorney, Fire Chief, Zoning Administrator, and Building Inspector. In cases where the Planning Commission deems it appropriate, it may engage the services of a suitably qualified professional engineer or engineering firm to review and comment upon the site plan, the expenses of such review to be borne by the applicant.
- (e) *Site plan approval.* The Planning Commission shall have the function, duty, and power to approve or disapprove, or to approve subject to compliance with certain modifications or conditions, site plans in accordance with the purposes, intent, and provisions of this chapter.
- (1) *Public hearing may be required.* The Planning Commission shall also have the discretion to determine during its initial review, whether the nature of the proposed development warrants the holding of a public hearing. If such a hearing is required, the applicant shall be required to submit an additional fee, as listed in the schedule of fees approved by the Township Board.
 - (2) *Processing times.* Normally, the decision of the Planning Commission will be made within 60 days of the receipt of the application by the Township Zoning Administrator, or within 30 days of the closing of the public hearing, if required.

(Zoning Ord. 1977, art. XIII, § 1303; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-72. - Standards for site plan review.

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

- (1) That there is a proper relationship between the existing streets and highways in the vicinity of the proposed deceleration lanes, (if any) service drives, entrance and exit driveways, and parking areas to ensure the safety and convenience of both pedestrian and vehicular traffic;
- (2) That the buildings, structures, and entry-ways thereto proposed for the premises are situated so as to minimize the adverse effects upon owners and occupants of adjacent properties and the neighborhood in general;
- (3) That as many natural features of the landscape as possible are retained where they furnish a barrier or buffer between the proposed development and any adjoining properties used for dissimilar purposes and/or where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharges of stormwaters;
- (4) That any adverse effects of the proposed development and future resulting activities upon adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setbacks, and location of buildings, structures, and their entryways;
- (5) That all provisions of this chapter are complied with, unless an appropriate variance has been granted by the Zoning Board of Appeals;
- (6) That all buildings and structures are accessible to emergency vehicles;
- (7) That the site plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of land in accordance with its character and adaptability; to avoid overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for systems of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous use of land, resources, and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses, and the general and appropriate trend and character of land, building, and population development.

(Zoning Ord. 1977, art. XIII, § 1304; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-73. - Modifications and revisions.

- (a) *Modification.* Any modifications of a submitted site plan desired by the Planning Commission shall be stated in writing to the applicant. Site plan approval may be granted contingent upon the revision of the site plan by the applicant to the satisfaction of the Planning Commission. If any part of a site plan is in conflict with any section of this chapter in terms of area and bulk regulations, setbacks, parking, maneuvering lanes, etc., a variance must be obtained from the Zoning Board of Appeals before the Planning Commission can approve the site plan.
- (b) *Incomplete or repeatedly revised plans.* Applicants who submit incomplete plans or revise them repeatedly after submission will be charged an additional review fee if their actions require the Board to have more than two meetings to review and approve their site plans. The optional sketch plan review procedure outlined in section 46-71(a), does not count as one of the two meetings.

(Zoning Ord. 1977, art. XIII, § 1305; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-74. - Recording and filing.

Copies of the approved site plan, with modifications, if any, shall be signed by the chairperson of the Planning Commission, and, if variances have been granted, by the chairperson of the Zoning Board of Appeals. Copies of the approved site plan will be distributed and/or filed as follows:

Applicant	3
Township Clerk	1
Planning Commission	2
Board of Appeals	1
Zoning Administrator	1
Building Inspector	1

(Zoning Ord. 1977, art. XIII, § 1306; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-75. - Amending a site plan.

A proposed amendment, modification, alteration, or other change to a previously approved site plan shall be submitted via the Zoning Administrator to the Planning Commission for review and approval in the same manner as the original application. Such proposed revisions shall be clearly identified, numbered, dated, and referenced to site plans and revisions previously approved by the Planning Commission.

(Zoning Ord. 1977, art. XIII, § 1307; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-76. - Performance bond.

The Planning Commission shall have the right and authority to require a developer to file with the Township, at the time of application for a building permit, a performance bond or bank letter of credit in such amount as may be determined by said Board to ensure the development of the site in accordance with the approved site plan, conditioned upon such proper construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in the face amount which is a reasonable percentage of the estimated total cost of construction and site development. The bond shall be for the purpose of securing the completion of improvements considered

necessary to protect natural resources and/or the health, safety and welfare of the residents of the Township and adjacent residents and property owners. The Planning Commission shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for which the bond was required.

(Zoning Ord. 1977, art. XIII, § 1308; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-77. - Appeals and questions of interpretation.

Any persons considering themselves aggrieved by the decision of the Planning Commission in granting or denying site plan approval shall have the right to appeal said decision to the Township Zoning Board of Appeals. The appeal must be filed with the Township Clerk within 15 days of the decision of the Planning Commission.

(Zoning Ord. 1977, art. XIII, § 1309; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Secs. 46-78—46-97. - Reserved.

DIVISION 3. - BOARD OF APPEALS; APPEALS AND VARIANCES³

Footnotes:

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State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-98. - Creation and membership.

There is hereby established a Zoning Board of Appeals, hereinafter in this chapter called the "Board," which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act (MCL 125.3101 et seq.) and in such a way that the objectives of this division shall be observed, public safety and welfare secured, and substantial justice done. The Board shall be composed of the five members identified in subsections (1) through (3) of this section:

- (1) The first member shall be a member of the Township Planning Commission appointed by the Township Board.
- (2) The second member may be a member of the Township Board, appointed by the Township Board.
- (3) The remaining members shall be appointed by the Township Board and shall be representative of the population distribution and of the various interests present in the Township.
- (4) An elected officer of the Township shall not serve as chairperson of the Board of Appeals and no employee or contractor of the Township Board shall be a member or an employee of said Board of Appeals.

- (5) The Township Board may appoint to the Zoning Board of Appeals not more than two alternative members for the same terms as regular members. An alternate member may be called to serve if a regular member is absent or unable to attend one or more meetings. An alternate may also be called to serve for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made.
- (6) All members shall be qualified electors in the Township. If a member is no longer a qualified elector in the Township, that member's position on the Zoning Board of Appeals is automatically vacated regardless of whether a written resignation is received from that member; and the Board shall notify the Supervisor that a vacancy exists and the Township Board shall fill the vacancy at the earliest possible date.
- (7) Members of the Board of Appeals may be removed by the Township Board for non-performance of duties or misconduct in office upon written charges and after a public hearing.
- (8) A member shall disqualify him or her self from a vote on any issue in which he or she has a conflict of interest. Failure of a member to so disqualify himself shall constitute misconduct in office.
- (9) The term of each member shall be three years. A successor shall be appointed by the Township Board not more than one month after the term of the preceding member has expired. The Township Board member shall complete his or her term on the Board of Appeals with the termination of his or her membership on the Township Board, unless he or she resigns or is otherwise disqualified to serve.

(Zoning Ord. 1977, art. XVII, § 1700; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-99. - Meetings.

All meetings of the Board of Appeals shall be held at the call of the chairperson and at such times as the Board may determine. All hearings conducted by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions.

(Zoning Ord. 1977, art. XVII, § 1701; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-100. - Appeals.

- (a) An appeal may be taken to the Board of Appeals by any person, firm, or corporation, or by an officer, department, board, or Bureau affected by a decision of the Zoning Administrator. Appeals shall be taken within such time as prescribed by the Board of Appeals its general rules, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board of Appeals all papers constituting the record upon which an action is being appealed. An appeal shall stay all proceedings in furtherance of an action unless the Zoning Administrator certifies to the Board of Appeals after the notice of appeal has been filed that a stay would, in his or her opinion, cause imminent peril to life or property, in which case said appeal shall not stay compliance unless there is a restraining order entered by a court of competent jurisdiction.
- (b) The Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the appellants and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

(Zoning Ord. 1977, art. XVII, § 1702; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-101. - Fees.

The Township Board may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. At the time the notice for appeal is filed, said fee shall be paid to the Zoning Administrator, which the Zoning Administrator shall forthwith pay over to the Township Treasurer to the credit of the general revenue fund of the Township.

(Zoning Ord. 1977, art. XVII, § 1703; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-102. - General powers.

The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any changes in the terms of this chapter, but does have power to act on those matters where this chapter provides for an administrative review or interpretation, and to authorize a variance as defined in this section and laws of the state. Said powers include:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this chapter.
- (2) *Variance.* A variance may be granted from the strict application of the provisions of this chapter whereby by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property on December 13, 1977, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this article. In order for the Board of Appeals to grant a variance, the applicant must show that the problem is not self-created. In granting a variance, the Board shall state the grounds upon which it justifies the granting of the variance and may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. For any variance involving a setback, lot lines must be able to be established using official monuments or certified corner stakes and any other point as deemed necessary. These points must be present and observable. The Zoning Board of Appeals has the authority to require a new or additional survey at ZBA discretion.
- (3) *Interpretations.* To hear and decide in accordance with the provisions of this chapter requests for interpretations of the Zoning Map and for decisions on which this chapter specifically authorizes the Board to pass.
- (4) *Determinations.* In consideration of all appeals and all proposed variations to this chapter, the Board shall, before making any variations from the article in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. Nothing herein contained shall be construed to give or grant

to the Board the power or authority to alter or change this chapter or the Zoning Map, such power and authority being reserved to the Township Board, in the manner provided by law.

(Zoning Ord. 1977, art. XVII, § 1704; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 144, § IX, 8-12-2015)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-103. - Orders.

In exercising its powers, the Board may reverse or affirm wholly or partly, or may modify the orders, requirements, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

(Zoning Ord. 1977, art. XVII, § 1705; Ord. No. 15, 12-15-1997; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-104. - Notices.

When the Board of Appeals shall consider any variance, notice shall be given to owners of all abutting properties contiguous to the premises personally or by first class mail, at the address listed in the last assessment roll. Notices shall be mailed not less than 15 days prior to the hearing. In all other matters considered by the Board, notices do not have to be given unless the matter being considered may have an impact on the surrounding properties.

(Zoning Ord. 1977, art. XVII, § 1706; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 119, 9-30-2006)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-105. - Time limitations.

- (a) No order of the Board permitting the erection of a building shall be valid for a period longer than one year, unless a zoning compliance permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (b) No order of the Board permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a zoning compliance permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Zoning Ord. 1977, art. XVII, § 1707; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-106. - Rejection or denial of application.

In the event an application to the Zoning Board of Appeals is rejected or denied, the reasons for such action shall be reduced to writing and shall be provided to the applicant on the same day that the Board reaches such decision.

(Zoning Ord. 1977, art. XVII, § 1708; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-107. - Appeal of Board of Appeals decision.

As provided in the Michigan Zoning Enabling Act (MCL 125.3101 et seq.), the decision of the Board of Appeals shall be final. However, any person having an interest affected by the decision may appeal to the circuit court within 30 days of certification of the decision in writing. The chairperson of the Board of Appeals will provide the applicant and any other interested parties a written certification of the final decision on the same day that the Board reaches such a decision. The court may affirm, reverse, or modify the decision.

(Zoning Ord. 1977, art. XVII, § 1709; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 119, 9-30-2006; Ord. No. 123, 7-1-2007)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Secs. 46-108—46-127. - Reserved.

DIVISION 4. - PERMITS, PLANS, CERTIFICATES OF OCCUPANCY, ETC.

Sec. 46-128. - Plot plan.

The Zoning Administrator shall require that all applications for zoning compliance permits shall be accompanied by site plan review and approval by the Planning Commission, or if not required, plans and specifications, including a plot plan, in triplicate, drawn to scale, showing the following:

- (1) The actual location, area, shape, and dimensions of the lot or parcel.
- (2) The location, shape, and dimensions, to include height, of all buildings or other structures to be erected, altered, or moved and of any buildings or other structures already on the lot or parcel.
- (3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this article are being observed.

(Zoning Ord. 1977, art. XVI, § 1602; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-129. - Permits.

The following shall apply in the issuance of any permit:

- (1) *Permits not to be issued.* No zoning compliance permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of land which is not in accordance

with all provisions of this article, to include site plan review and approval under division 2 of article II of this chapter, if required.

- (2) *Permits for new use of land or buildings.* No land or building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- (3) *Permits issuance.* No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall be limited to only such changes which will affect the provisions contained in this article. A copy of the building permit shall be kept on the site of operations, open to public inspection until completion of the work, as required by the state building code. The Zoning Administrator shall furnish a special colored placard indicating "Fabius Township Building Permit No. (3)" which shall be posted in a transparent weatherproof cover in a conspicuous position clearly visible from the road. Such permit shall be posted at the time that any excavation or other construction work commences and remain so posted until project completion

(Zoning Ord. 1977, art. XVI, § 1603; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 73, § 1, 8-25-1999)

Sec. 46-130. - Final inspection.

The holder of every zoning compliance permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection, which must be accomplished prior to application for a certificate of occupancy or compliance.

(Zoning Ord. 1977, art. XVI, § 1604; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-131. - Required certificates of occupancy.

No land, building, or part thereof, shall be occupied by or for any use other than existing uses unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

- (1) *Application for certificates.* Application for certificates of occupancy shall be made in writing to the Zoning Administrator on forms furnished by the Township, and such certificates shall be issued within five days after receipt of such application if it is found that the building or structure or part thereof; or the use of land is in accordance with the provisions of this article. If such certificate is refused for cause, the applicant shall be notified of such refusal and cause thereof, within the aforesaid five-day period.
- (2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- (3) *Certificates not to be issued.* No certificate of occupancy shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this article.
- (4) *Buildings accessory to dwellings.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- (5) *Record of certificates.* A record of all certificates issued shall be kept on file in the office of the Township Clerk and copies shall be furnished upon request to any person or agency having an official, proprietary or tenancy interest in the property involved.

(Zoning Ord. 1977, art. XVI, § 1605; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-132. - Fees.

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this article may be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the Township Board and shall cover the cost of inspection and supervision resulting from enforcement of this article.

(Zoning Ord. 1977, art. XVI, § 1606; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-133. - Performance bond.

- (a) To ensure compliance with the Zoning Ordinance and any conditions, limitations, or requirements imposed by the Planning Commission or the Zoning Board of Appeals deemed necessary to protect the natural resources, or the health, safety, and welfare of the residents or property owners of the Township, the Planning Commission, or the Zoning Board of Appeals, may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond covering a reasonable estimate of the cost required to ensure faithful completion of a particular construction, improvement, limitation, or requirement. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity.
- (b) Where the improvement required will take more than six months to be completed, the Commission or Board which required the deposit, may, as the work progresses, authorize a rebate of any cash deposit in reasonable proportion to the estimated cost of the ratio of the work completed.

(Zoning Ord. 1977, art. XVI, § 1607; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Performance guarantee authorized, MCL 125.3505.

Secs. 46-134—46-164. - Reserved.

ARTICLE III. - ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 46-165. - Districts established.

For the purpose of this article, the Township is hereby divided into the following districts:

Agricultural Districts	AG Agricultural District
Residential Districts	R-1 Rural Residential District
>	R-2 Medium Density Residential District
>	R-3 Low Density Residential District
>	LR Lake Residential District

>	MH Mobile Home Residential District
	RM-1 Multiple-Family Residential District
> Nonresidential Districts	B Business Districts
>	RB Resort Business Districts
>	SSB Small Special Business Districts
>	SC Shopping Center Districts
	I-1 Light Industrial Districts

(Zoning Ord. 1977, art. III, § 300; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 81, § I 10-31-2000; Ord. No. 102, 2 9-30-2004)

State Law reference— Zoning districts authorized, MCL 125.3201.

Sec. 46-166. - District boundaries and Zoning Map.

The boundaries of these districts are hereby established as shown on the Zoning Map, Township of Fabius Zoning Ordinance, and which map with all notations, references and other information shown thereon shall be as much a part of this article as if fully described herein.

(Zoning Ord. 1977, art. III, § 301; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Editor's note— The map has been amended by Ord. Nos. 16, 18, 23, 24, 26, 27, 28, 29, 31, 32, 33, 35, 36, 39, 40, 46, 51, 53, 54, 55, 57, 60, and 64. A new map was adopted as a part of Ord. No. 65, effective Sept., 1997. Later changes to map are shown on the map.

Sec. 46-167. - District boundaries interpreted.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries.

- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as following shorelines, shall be construed to follow such shore lines and in the event of change in the shore line shall be construed as moving with the actual shore line, actual shoreline being that based on the legal level of the lake; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- (7) Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by subsections (1) through (6) of this section, the Board of Appeals shall interpret the district boundaries.
- (8) Insofar as some or all or the various districts may be indicated on the Zoning Map by patterns or colors which, for the sake of map clarity do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.
- (9) *Properties zoned SSB.* Because the location and size of small parcels zoned SSB Small Special Business does not permit clear designation on the Zoning Map, the following descriptions are hereby set forth:
 - a. *Long Lake Food Store.* Property known as Long Lake Food & Book Shop, 10249 Lucas Road on the north shore of Long Lake (as of June 2, 1975, updated July 1996, revised September, 1997).

(Zoning Ord. 1977, art. III, § 302; Ord. No. 15, 12-13-1977; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-168. - Zoning of vacated areas.

Whenever any street, alley or other public way, within the unincorporated area of the Township shall be vacated, such street, alley, or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

(Zoning Ord. 1977, art. III, § 303; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-169—46-189. - Reserved.

ARTICLE IV. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 46-190. - District requirements.

All buildings and uses in any district shall be subject to the provisions of article VII of this chapter, Supplemental District Regulations and article I of this chapter, in general, and the appropriate district regulations contained here in article IV.

(Zoning Ord. 1977, art. III, § 304; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 164, § II(A), 2-12-2020)

Sec. 46-191. - Uses not otherwise included within a specific use district.

(a) *Intent.*

- (1) The uses identified in this section possess special characteristics making it impractical to include them in a specific use district classification. They may be permitted by the Planning Commission using the procedures outlined for conditional or special exception use permits in article VI of this chapter. However, the uses identified in this article are also subject to the conditions and requirements specified for them in this article. Uses identified in this article shall be specifically prohibited from any residential district unless otherwise specified herein.
- (2) Generally, these uses require special consideration since they service large areas and most require sizable land areas and can create problems of incompatibility with other nearby uses.

(b) *Identified uses not included within a specific use district.*

- (1) *Extraction or mining of sand, gravel, topsoil and minerals.* The removal of sand, gravel, topsoil, earth, limestone or similar materials by excavation, stripping, mining or otherwise taking, and including on-site preparations associated with the taking, to include crushing, grinding, washing, grading, sorting, and/or stockpiling and loading and hauling operations shall be permitted.
 - a. All extraction from new pits begun subsequent to the effective date of the ordinance from which this article is derived shall be washed, graded and further processed and/or stored within the limits of the property in question, and no natural resource extracted outside the limits of the property in question shall be brought in for washing, grading, or further processing except in the event of a public emergency as declared by the Township Board requiring the use of said natural resource.
 - b. Resource related industries including, but not limited to: concrete batching plants and asphalt mixing plants shall not be permitted as a use under these provisions, unless the Planning Commission is satisfied the same do not constitute a nuisance by reason of dust, noise, odor, smoke, light, traffic congestion or movement.
 - c. Any change in the natural contour of the land during the foregoing mining or excavation operations and at the cessation of the same shall be maintained in a safe condition for any person who may be upon the premises with or without the permission of the owner of the land or the mining operator or excavator.
 - d. No slope resulting from a mining or excavating operation shall exceed an angle of 45 degrees with the horizontal for a period in excess of one month.
 - e. No mining or excavating operation shall be located closer than 200 feet to the nearest adjacent residence, nor closer than 100 feet to any public street right-of-way line, nor closer than 500 feet to any existing lake, stream, or other body of water.
 - f. All areas disturbed by a mining or excavating operation shall be reclaimed and rehabilitated progressively as they are mined or excavated as well as upon termination of such operations to a safe and inconspicuous condition which blends in with the general surrounding contours and vegetation so that the affected area is returned to a reasonably natural condition. All slopes and banks shall be smoothly graded and planted or otherwise treated to prevent erosion or further deterioration.
 - g. All equipment or other installations or temporary structures involved in the operation shall be maintained in a neat, orderly, and nuisance free condition in order to prevent injury to any person or property, or to the community in general.
 - h. Excavation, washing, and stockpiling of extracted material shall not be conducted closer than 50 feet from the outer boundary of any property line. Such setback area shall not be used for any use in conjunction with the mining or excavating operation except for access roads, fencing, landscaping, or public notice signs identifying the operation.

- i. Greenbelt plantings and landscaping shall be provided within the setback areas as shall be required by the Planning Commission where they appear to be necessary for the protection of property values, and the general welfare of the community.
- j. All means of access to a mining or excavating operation shall be from major or secondary thoroughfares and shall not be through streets substantially developed with residences.
- k. All private access or entrance roads to sand and gravel mining, asphalt plants, and similar operations shall be surfaced with concrete or asphalt paving for a distance of not less than 300 feet from any public access road where such public road is paved or similarly treated so as to create a dust-free surface and to prevent tracking of mud. Width shall be a minimum of 12 feet and paving thickness to be sufficient to not collapse under heavy loading. The paved hard surface access/entrance road shall be preceded by a roadway of at least 200 feet of three-inch stone. The paved hard surface must be cleaned and maintained so as not to create tracking on county roads. Appropriate culverts and sediment sumps shall be installed in accordance with standards of the St. Joseph County Conservation District for stabilized construction access.
- l. The use of any explosives shall be done in compliance with the Regulations for Storage and Handling of Explosives as published by the Michigan State Police, Fire Marshal Division, East Lansing, Michigan.
- m. All uses proposed under these provisions shall be preceded by a site plan submitted for review and approval by the Planning Commission in accordance with division 2 of article II of this chapter. Site plan shall include plans for reclamation and rehabilitation of the area mined or excavated. Such plan will also indicate how the requirements outlined in the preceding subsections (b)(1)c through (b)(1)l of this section are to be complied with by the applicant.

(2) *Campgrounds and retreats, public or private.*

- a. Any proposed campground, public or private, whether modern, primitive, or temporary as defined by Rule 325.1551 of the Michigan Department of Public Health, Division of Environmental Health, is subject to site plan review and approval in accordance with the provisions of division 2 of article II of this chapter.
- b. All campgrounds in the Township must comply with all applicable provisions of Rules 325.1551 through 325.1585, and additional related rules as may be issued by the Michigan Department of Public Health under the authority of Section 12511 of the Public Health Code (MCL 325.12511). The Planning Commission shall review provisions to ensure compliance with all current and applicable such rules as part of site plan review and approval.
- c. Portable dwellings, such as, but not limited to travel trailers, motor homes, tents, etc., located in campgrounds shall be used only on a seasonal basis and shall not be used for yearround residence.
- d. No uses permitted under this section shall be located closer than 50 feet to the right-of-way line of a major thoroughfare nor closer than 50 feet to any property line.
- e. A wall or solid fence at least seven feet in height or a green belt 20 feet in width with evergreen trees or evergreen shrubs at least seven feet in height shall be maintained at the periphery of any campground to provide a year-round obscuring screen.
- f. Site conditions, including soil type, groundwater level, slope, drainage, and vegetation shall not create hazards to adjoining properties or the health and safety of occupants. The site shall not be subject to unpredictable or sudden flooding, sedimentation, or erosion and shall not be exposed to objectionable smoke, noise, odors or other adverse influences.
- g. As provided by the Department of Public Health rules, campsites shall not have less than 15 feet of road frontage width and 1,200 square feet of area. Permanent structures may not be located on a campsite except those constructed before January 1, 1986.

- h. Services buildings or other structures erected or altered in a campground or recreation grounds shall not exceed one story and 15 feet in height.
- i. Accessory uses. Management headquarters, toilets, showers, laundry facilities, and other uses and structures customarily incidental to campgrounds are permitted as accessory uses. In addition, stores, restaurants, and other convenience establishments are permitted as accessory uses subject to the following conditions:
 - 1. Such establishments shall be restricted in their use to occupants of the campgrounds and shall present no visible evidence as to their commercial character which would attract customers other than occupants of the campground.
 - 2. Such establishments and the parking areas primarily related to their operations shall not occupy more than ten percent of the total area or grounds.

(Zoning Ord. 1977, art. X, §§ 1000, 1001; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998; Ord. No. 154, § III, 1-9-2019)

Secs. 46-192—46-220. - Reserved.

DIVISION 2. - AG AGRICULTURAL DISTRICT

Sec. 46-221. - Intent.

The provisions of this division apply to the AG Agricultural District. The AG Agricultural District is designed to provide and preserve areas of not less than 40 acres each for agricultural and farming operations and uses incidental or related thereto as described in more detail in the following sections.

(Zoning Ord. 1977, art. IV, § 400; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-222. - Description and purpose.

The AG district is established to provide areas in which farming operations and other customary agricultural activities may be carried on with minimum conflict with residential and other permitted secondary uses. Lot size requirements for the AG district are designed to retain as much land as possible in agricultural use. Where any provisions of this section conflict with the Michigan Right to Farm Act (MCL 286.471 et seq.) and/or the generally accepted agricultural management practices (GAAMPs) as adopted by the Michigan Commission on Agriculture, the Right to Farm Act and the GAAMPs shall govern.

(Zoning Ord. 1977, art. IV, § 401(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001)

Sec. 46-223. - Permitted uses.

In the AG district, no building shall be erected or land or building used except for one or more of the following specified uses, unless otherwise specifically provided in this article:

- (1) Farm dwellings, barns, stables, silos, housing for farm labor, and accessory buildings, structures, and uses customarily incidental to any of the foregoing uses unless otherwise specifically provided in this article.
- (2) Agricultural, horticultural, viticultural, dairy farming, farm forestry and similar bona fide farming or agricultural enterprises, excluding, however, rendering plants, commercial fertilizer production, or garbage feeding or disposal operations. The raising of livestock and poultry when incidental to

general farming is permitted; however, specialized operations on a scale meeting the definition of intensive livestock operations are permitted only by special use permits authorized by the Planning Commission. See section 46-3, definitions, and section 46-224(8).

- (3) Greenhouses or nurseries.
- (4) Markets for sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an insubstantial part of said business. An advertising sign not more than 18 square feet in area advertising such products. (Also see section 46-655, signs.)
- (5) Animal feed lots from 50 to 299 animal units, subject to the following standards and requirements:
 - a. Minimum farm size of 20 acres.
 - b. Feed lots situated at least 100 feet from property lines and any rights-of-way.
 - c. Use shall be conducted so as not to cause water pollution problems.
 - d. Disposal of waste by spray irrigation is prohibited. Animal waste shall be managed in accordance with Interim Generally Accepted and Recommended Good Livestock Waste Management Practices, published by Michigan State University, June 1, 1988, with subsequent revisions.
 - e. Emission of obnoxious odors shall be controlled and minimized so as not to adversely affect nearby residential areas.
 - f. Insects and dust shall be controlled so as not to be a health hazard or a nuisance to nearby residential areas.
- (6) Home occupations as defined in section 46-3.
- (7) Essential services as defined in section 46-3.
- (8) Single- or two-family homes and accessory buildings, structures and uses customarily incident thereto.
- (9) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. IV, § 401(2); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 88, 3-29-2002; Ord. No. 163, § IV, 1-8-2020)

Sec. 46-224. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings, or structures in the AG district may be used for the following:

- (1) Public utility and service buildings.
- (2) Nursing homes, convalescent homes, or senior citizen housing.

- a. *Conditions.* The foregoing uses may each be located on a site of not less than five acres having a front-to-depth ratio of not more than one to four and no single boundary side dimension of less than 250 feet.
- (3) Wildlife reserves and refuges.
- (4) Hunting preserves.
- (5) Churches, parish houses, public and private schools and educational institutions, and other municipal buildings, structures, or uses. The Planning Commission shall consider the following standards:
 - a. The size, character, and nature of the proposed activity, structure, and use;
 - b. The proximity of the proposed activity, structure, and use to adjoining properties;
 - c. The off-street parking to be provided;
 - d. The traffic congestion and hazards likely to result from the proposed activity or use; and
 - e. The degree to which the proposed activity, structure, and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.
- (6) Community buildings, public recreational areas, parks, cemeteries, health and fitness facilities, or golf courses, when authorized by the Planning Commission as a special exception use. The Planning Commission shall consider the following standards:
 - a. The necessity for such use for the community and the surrounding neighborhood;
 - b. The proximity of the proposed use to adjoining properties, including occupied buildings, and farming activities and the effect of the proposed use on adjoining properties and the surrounding neighborhood;
 - c. The size, nature, and character of the proposed use;
 - d. Potential traffic congestion and hazards which might result from the proposed use; and
 - e. Parking facilities to be provided.
- (7) *Private landing fields.* The Planning Commission shall consider the standards listed in subsections (6)(a) through (e) of this section.
- (8) *Intensive livestock operations.* Based on the definitions of "intensive livestock operations" and "animal unit" contained in section 46-3, this subsection applies to the raising of livestock in concentrations of 300 or more horses or cattle; 600 or more swine, sheep, or goats; 7,500 or more turkeys or ducks; or 15,000 or more poultry or fowl. (See definitions, section 46-3.)
 - a. *Site/facilities locational requirements.* The applicant for a special exception use permit for an intensive livestock operation shall submit with the application a detailed site plan showing that the property upon which the operation is proposed to be sited and the buildings, structures and enclosures thereon, including animal waste storage areas, structures, and excavations, fully complies with the following locational requirements:
 1. The property shall be zoned AG agricultural pursuant to the Township Zoning Ordinance/Zoning Map.
 2. The property shall have a minimum lot area of 40 contiguous acres under single ownership.
 3. The property shall have a minimum lot frontage of 330 feet.
 4. All nonresidential buildings, structures, enclosed areas (including land used for pasture or feedlot purposes), and equipment associated with the conducting of an intensive livestock operation, including animal shelter and waste storage areas, structures, and excavations, shall be situated at least 100 feet from any property boundary line.

5. All buildings, structures, enclosed areas, (including land used for pasture or feedlot purposes), and equipment associated with the conducting of an intensive livestock operation, including animal shelter and waste storage areas, structures, and excavations, shall be situated at least 2,640 feet (½ mile straight line measurement) from:
 - (i) Any property zoned other than AG agricultural, at the time the application for the special exception permit is made.
 - (ii) The nearest boundary of any other intensive livestock operation, including any such operation outside the boundaries of the Township.
 - (iii) Any property situated within the City of Three Rivers.
- b. *Governmental permits, facility design and management requirements.*
 1. Unless expressly waived by the appropriate governmental agency, an approved intensive livestock operation shall at all times comply with the requirements of all applicable permits, the provisions of this article, and the practices outlined in the reference publications cited below.
 2. Animal waste shall be stored and treated in accordance with the construction and design standards and specifications found in Midwest Plan Service Publication, Livestock Waste Facilities Handbook, MWPS—18, and/or in the U.S. Department of Agriculture, Soil Conservation Service field office technical guides.
 3. Animal waste shall be managed in accordance with Interim Generally Accepted and Recommended Good Livestock Waste Management Practices as published by Michigan State University June 1, 1988, and in accordance with subsequent revisions thereto developed under the auspices of the State Agriculture Commission, and in accordance with such additional rules, regulations and guidelines as may be established by the Agriculture Commission or other appropriate state agency in accordance with 1981 Public Act 93, as amended. Where differences exist between any such state rules, regulations or guidelines and the requirements of this article.
 4. Liquid or semi-liquid animal waste shall only be transported upon public roads in completely enclosed, water-tight tanks or trucks. Solid waste shall only be transported upon the public roads in vehicles which are maintained in good condition and which are constructed and operated in such a manner as to ensure that waste material is not spilled during transport.
 5. Animal waste shall only be applied to tillable crop land, and only for the purpose of soil nutrition at an agronomically appropriate rate, and in accordance with the specifications referenced in subsection (8)b3 of this section. Liquid animal waste shall be applied only by subsurface injection or spreader method, and shall in no event be applied through a spray irrigation system.
 6. Animal waste shall not be applied to the soil within 1,000 feet from the boundary of any existing plat or subdivision, or within 800 feet from any home or private well, except a home or private well on the parcel on which the intensive livestock operation is situated, or within 800 feet from any commercial building, or within 500 feet from any surface water, or within 2,000 feet from any municipal well, or within 2,640 feet from any hospital building or nursing home facility licensed by the State Department of Public Health. In addition, any waste applied to the soil within 5,280 feet from any hospital building or licensed nursing home facility shall be by the subsurface injection method only. (All distances to be measured by straight line.)
 7. The holder of a special exception use permit for an intensive livestock operation shall maintain and provide to the Township at not less than six-month intervals (due each January 15 and July 15) a regularly updated list of all sites where waste from the intensive livestock operation was spread during the preceding six-month period, the

dates and times that the spreading took place, the methods and rates of spreading used, and the average monthly number of animals and the maximum number of animals on the premises during the period reported.

8. The owner and operator of an intensive livestock operation shall at all times use acceptable larvicide measures approved or recommended by Michigan State University, the State Department of Agriculture, the St. Joseph County Cooperative Extension Service, or any other appropriate governmental agency.
 9. An approved intensive livestock operation shall at all times be conducted in compliance with all applicable state and local laws and regulations, including the provisions of this article.
- c. *Maximum animal unit limitations.* No intensive livestock operation shall have more than 2,500 animal units.
- d. *Groundwater discharge permit and quality/flow evaluations.*
1. As a final condition for the issuance of a special exception use permit for an intensive livestock operation, the applicant shall obtain a groundwater discharge permit pursuant to part 31 of the Natural Resources and Environmental Protection Act (MCL 325.3101 et seq.).
 2. In addition, the owner or operator of the proposed intensive livestock operation shall install from one to four two-inch diameter groundwater monitoring wells within 100 feet of each animal waste storage structure, area, or excavation, the number and location of such monitoring wells to be prescribed by the Planning Commission to facilitate the purposes of the water sampling requirements set forth in this subsection. Prior to approval of the permit, the owner or operator shall cause a sample of water from the upper groundwater aquifer to be extracted from each monitoring well and be tested by a governmental agency or certified independent private laboratory for background organic and inorganic chemical or bacteriological contamination, and shall provide the results of such testing to the Township. In addition, as a condition of approval of a special exception use permit, the owner or operator of an intensive livestock operation shall submit to further appropriate groundwater sampling and testing from the monitoring wells at the request of the Township at reasonable intervals.
 3. In accordance with the pre-approval water sampling set forth above, and to enable the Planning Commission to properly evaluate the suitability of a specific site for intensive livestock operation purposes, the Planning Commission shall, in the course of reviewing an application for same, obtain a report from the District Board of Health or other qualified experts disclosing the flow of groundwater beneath the proposed site based on existing available hydrological data compiled by governmental agencies, educational institutions, or other public entities. In addition, the applicant shall submit to the Planning Commission any hydrological studies and supporting data obtained by the applicant, or prepared on behalf of the applicant, for the proposed site.
- e. *Compliance with additional requirements.* The applicant shall, prior to approval of a special exception use permit, demonstrate the capability to comply fully with all additional regulations and/or conditions which the Planning Commission may, in its reasonable discretion, determine to impose in order to avoid or prevent the degradation of the soil, water, or air quality in the Township and surrounding areas.
- f. *Registration of pre-existing intensive livestock operations.* The owner or operator of a farm operation meeting the definition of an intensive livestock operation as provided in this article but in existence prior to the effective date of such provisions of this article, shall, within 60 days of its promulgation, notify the Township of the maximum number and types of animals involved with the operation during the preceding year, for the purpose of determining and recording the status of the operation as a pre-existing nonconforming use as set forth in this article.

(9) *Kennels.*

- a. All kennel facilities, including animal run areas, shall be situated at least 200 feet from all property lines. Each kennel facility shall provide sufficient space for each animal boarded, bred, or trained on the property, in accordance with applicable state laws and the recommendations of the American Kennel Club. All kennel facilities shall have waste disposal systems adequate to handle all animal waste generated from the kennel facilities.
- b. Noise, odor, or other objectionable characteristics incident to the facility shall not be discernible beyond the boundaries of the premises.
- c. All kennel facilities shall be designed, constructed, operated, and maintained in such a manner as to provide humane and sanitary conditions for each animal kept, boarded, bred, or trained upon the premises.

(10) *Shooting ranges.* Shooting ranges, as defined in section 46-3 are subject to the article VI "Conditional and Special Exception Uses"; article VII "Supplemental District Regulations" (to the extent not modified by special exception use requirements); article II, division 2, "Site Plan Review"; article IV, division 7, "Schedule of Regulations"; and the following particular standards:

- a. *Location requirements.* Shooting ranges, indoor or outdoor, (rifle, skeet, trap, pistol and archery) are permitted by a special exception use permit in the I-1 Industrial Districts and AG Agricultural Districts.
 1. The site shall be located on, or shall have principal access from, a major thoroughfare or county road.
 2. Outdoor shooting ranges shall have a minimum parcel size of 40 acres approved by the Planning Commission with a minimum width of 1,320 feet.
 3. Indoor shooting ranges shall have a minimum parcel size of two acres with a minimum lot width of 150 feet.
- b. *Buffering requirements.* Minimum front, side, and rear yard setbacks shall be 450 feet. Minimum setbacks may be increased by the Planning Commission or if so warranted by the design standards of the National Rifle Association.
- c. Performance standards:
 1. General.
 - (i) All federal, state and county codes and ordinances in regard to firearms shall be strictly adhered to and special exception use permit standards in section 46-191.
 - (ii) A site plan for the range, whether indoor or outdoor, shall be submitted to the Planning Commission. The site plan shall clearly demonstrate that all applicable National Rifle Association Range Design Standards and Guidelines have been met. The design of the facility shall clearly show that safety of persons on and off the site is ensured.
 - (iii) The Township Planning Commission may have the County Sheriff review and comment on the site plan prior to submitting it to the Township Planning Commission.
 - (iv) The intensity level of sounds if requested by the Planning Commission shall not exceed 75 decibels (dab) at the lot line of I-1 Industrial District uses, and 55 decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
 - (v) Off-street parking shall be provided in the ratio of one space for each three users at capacity. Parking areas shall be permitted within required setbacks.

- (vi) All parking areas shall be screened from view of an adjoining residential district or residential use by a greenbelt, obscuring fence, or a masonry wall, whichever is determined by the Planning Commission to be the most appropriate and effective.
2. Additional requirements for indoor and outdoor shooting ranges:
- (i) The operator shall submit with a site plan an environmental stewardship plan that outlines the measures that will be implemented to limit potential lead contamination of soil and water.
 - (ii) A fence, if required by the Planning Commission, shall be provided around the perimeter of the shooting range. The type of fence will be at the Planning Commission's discretion. The fence shall have warning signs posted at intervals to be determined by the Planning Commission.
 - (iii) The outside hours when shooting is permitted at a shooting range shall be limited to between the hours of 9:00 a.m. to dusk Monday through Saturday, and 10:00 a.m. to 6:00 p.m. or dusk on Sundays. The Planning Commission may apply more restrictive hours where protection for adjoining residents is necessary.
 - (iv) Central loudspeakers/paging systems are prohibited.
 - (v) There shall be no guns sold on site unless the owner of the property is selling and has a Federal Firearms License by the federal law.
 - (vi) Driveways, signs, exterior lighting, parking areas shall be in accordance with article VII of this chapter.
 - (vii) A copy of all firearm licenses and permits, federal, state, county and insurance policies shall be provided to the Planning Commission for its files.
- (11) *Primary use solar energy systems.* The planning commission shall consider the following standards and may issue conditions for approval.
- a. *Land size and area.* The applicant should demonstrate, through the site plan of proposed conditions, that the size, shape, and area of the land are sufficient for the proposed use.
 - b. *Compatibility.* The proposed development should not be detrimental to the surrounding properties and neighborhood.
 - c. *Land/lot coverage.* Solar panels shall not apply to lot coverage calculations. Only the associated buildings and other structures shall be included in the lot coverage calculations.
 - d. *Height restriction.* All buildings and other structures shall be subject to the height restrictions of the district they are located within. Solar panel assemblies shall not exceed 16 feet in height.
 - e. *Safety and security.* Adequate fencing, signage, and safety measures shall guard the facility. Operator shall be required to accommodate access requirements of local fire, police, and ambulance services.
 - f. *Code compliance.* The Special Exception Use permit shall be conditioned upon obtaining all necessary permits and approvals from all levels of government and maintaining compliance thereof.
 - g. *Setbacks.* All solar panels and associated buildings and structures shall be located at least 125 feet from any adjoining property line and be no less than 75 feet from any road, street, or highway right of way line. Fencing and other security measures shall not apply to the required setback.
 - h. *Drainage infrastructure.* No part of the planned use, buildings, solar panels, or other structures shall impede, interfere with, or be placed upon any drainage features under the control of the county drain commissioner.

- i. *Landscaping.* A vegetative buffer and screening shall be constructed around the perimeter of the facility. Naturally occurring existing woodland areas are acceptable as screening and buffering. The applicant shall include with the application a maintenance plan for the proposed development including snow removal, mowing, and weed control
- j. *Environmental impact.* Applicant shall meet all permits and requirements of the Fabius Township Wetlands protection ordinance along with all permits and requirements of the Department of Environmental Quality and the Department of Natural Resources of the State of Michigan.
- k. *Noise.* At no time during the operation of the planned facility shall the noise exceed 50 decibels as measured at the property line
- l. *Glare.* Solar panels shall be located and placed so that the concentrated solar glare shall not be directed toward or onto nearby properties or roadways.
- m. *Decommissioning.* The applicant shall submit a decommissioning plan to ensure the solar energy system components are properly removed and disposed of after their useful life. The plan shall include provisions for the removal of all structures and foundations, restoration of the soil and vegetation to its original condition, timeframe for completion of the decommissioning, estimated costs, and a surety bond (or other security acceptable to the Planning Commission) to cover the cost of all decommissioning activities. The decommissioning cost estimate shall be prepared by the applicant's engineer. The decommissioning plan and the surety bond amount are subject to approval by the Planning Commission. The plan shall also include a self-conducted decommissioning cost review every five years to be submitted to the Planning Commission for approval, with the surety bond adjusted as needed to cover all costs.
- n. *Annual report.* The operator of the facility shall submit a brief written report to the Planning Commission each year the facility is in operation. The report shall indicate the amount of power generated each month of the reporting period in units of megawatt-hours. The annual report shall also list all complaints received and actions taken to mitigate those complaints. The report shall also list any violations from any governmental agency received during the reporting period and the actions taken to mitigate those violations. Each fifth-year annual report shall include the decommissioning cost review from paragraph "M" above.
- o. *Application fee.* The applicant shall remit the appropriate fee for the special exception use permit pursuant to the fee schedule approved by the Township Board. If required by the Planning Commission, the applicant shall set up an escrow account with the Township to cover all reasonable fees and expenses incurred by the Township relating to the application. At its sole discretion, the Planning Commission may require funds be deposited into the escrow account as needed.
- p. *Inspections.* The applicant shall make the facility available to inspections by Township officials upon written notice and during normal business hours or at such day and time as mutually agreed upon by both parties. The Planning Commission may, at its discretion, require physical inspection by a Township official during the fifth-year report mentioned above.
- q. *Site plan review.* The applicant shall submit an engineered site plan(s) that reflects all existing conditions and all proposed conditions. The site plan(s) shall be prepared at the applicant's cost by a registered engineer and requires approval by the Planning Commission.
- r. *Deviations.* Any deviations from the approved plans shall require the submittal of a revised site plan(s) for approval by the Planning Commission.

(Zoning Ord. 1977, art. IV, § 401(3); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 88, 3-29-2002; Ord. No. 137, § 2, 2-8-2012; Ord. No. 150, § I, 1-10-2018; Ord. No. 163, § V, 1-8-2020)

Sec. 46-225. - Area and bulk regulations.

In the AG district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

- (1) Minimum lot size: five acres (217,800 square feet).
- (2) Minimum lot width: 250 feet. Irregular shaped parcels shall not have less than 66 feet at any location on the parcel.
- (3) Minimum street frontage: 200 feet in one location. Any secondary locations of street frontage must maintain a minimum width of 66 feet wide.
- (4) Minimum yard setbacks. Single-family residential:
 - a. Front: 40 feet.
 - b. Each side: 20 feet.
 - c. Rear: 40 feet.
 - d. All other uses: front, side, and rear yard setbacks shall conform with this subsection (4) of this section or the requirements of subsection (6) of this section, or the height of the main building, whichever are greatest.
- (5) Dwelling dimension and area minimums:
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of structures:
 - a. Residential: 2½ stories and 35 feet.
 - b. Agricultural: 125 feet.
 - c. Special exception uses: buildings may be permitted to exceed 35 feet if approved by the Planning Commission, provided front, side, and rear yards are all increased above the minimum required by one foot for each foot that the building height exceeds 35 feet. Freestanding towers shall be situated no closer than 1½ times the height of the tower measured from the tower base to all property lines.
- (7) Maximum percentage of lot area covered by all buildings:
 - a. Residential: 25 percent.
 - b. Agricultural: not applicable.

(Zoning Ord. 1977, art. IV, § 401(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 144, § X, 8-12-2015; Ord. No. 154, § VII(A, B), 1-9-2019; Ord. No. 163, § XVIII, 1-8-2020)

Secs. 46-226—46-243. - Reserved.

DIVISION 3. - SINGLE-FAMILY RESIDENTIAL DISTRICTS

Subdivision I. - In General

Sec. 46-244. - Intent.

The R-1, R-2, LR, and MH residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, single-family detached dwellings along with other residentially related facilities which serve the residents in the districts.

(Zoning Ord. 1977, art. V, § 500; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Secs. 46-245—46-266. - Reserved.

Subdivision II. - R-1 Rural Residential District

Sec. 46-267. - Description and purposes.

The provisions of this subdivision apply to the R-1 Rural Residential District. The R-1 zoning district is intended for large rural residential estates and general farming.

(Zoning Ord. 1977, art. V, § 501(1); Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-268. - Permitted uses.

Land, buildings, or structures in the R-1 district may be used for the following purposes only:

- (1) Farms for general farming, together with farm dwellings, barns, and accessory buildings, structures, and uses customarily incidental to general farming and other installations necessary to such farms. The raising of livestock and poultry, when incidental to general farming, is permitted; however, specialized farming to include dairy farms, poultry farms, animal feedlots, piggeries, and intensive livestock operations are permitted only in the AG Agricultural District. Temporary housing for migratory workers is prohibited in the R-1 district.
- (2) Greenhouses, nurseries, orchards, vineyards, or fruit farms.
- (3) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (4) Real estate signs, identifying signs, name plates in conformance with the requirements of section 46-655, signs.
- (5) Accessory buildings, structures, and uses customarily incident to any of the above permitted uses.
- (6) Essential services as defined in section 46-3.
- (7) Private stables for the housing of equine animals use on any lot of five acres or more subject to the following conditions:
 - a. No stable shall be constructed closer than 100 feet from any adjacent dwelling, excepting out buildings.
 - b. No animal shall be pastured closer than 50 feet from any adjacent dwelling, excepting out buildings.
 - c. There shall be no more than two animals per 40,000 square feet of lot or land, if unplatted.

- d. No stable shall be constructed or allowed in the front yard of any lot, or in the case of corner lots, either front yard, irrespective of the area.
- (8) Home occupations as defined in section 46-3 subject to the following requirements:
- a. No home occupation shall be permitted to be established or continued when the same is objectionable as determined by the Planning Commission due to noise, dust, smoke, odor, traffic congestion, reduction of the living environment, or other causes detrimental to the neighborhood in which located.
 - b. No home occupation shall be permitted which uses equipment or machinery that is industrial or commercial in nature, as determined by the Planning Commission.
 - c. There shall be no alteration in the residential character or function of the premises in connection with the home occupation, nor any external indication or evidence of the home occupation other than the permitted identifying sign.
 - d. Home occupation shall not exceed 30 percent of the gross first floor living area of the residential structure.
 - e. An identifying sign not exceeding two square feet in area may be located on the exterior of the building or in the yard area.
 - f. Home occupation shall not involve retail or wholesale trade, nor have a showroom on the premises.
 - g. Not more than one assistant or employee shall be employed in connection with a home occupation, provided that family members, as defined in section 46-3, shall not be counted as employees.
- (9) Accessory use solar energy systems.
- a. *Free standing.* Any accessory use solar energy system that is free standing (Not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 501(2); Ord. No. 21, 8-3-1979; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 163, § VI, 1-8-2020; Ord. No. 164, § II(B), 2-12-2020)

Sec. 46-269. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the R-1 district may be used for the following:

- (1) Public utility and service buildings.
- (2) Private and public schools, libraries, museums, art galleries, and similar uses, when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the following standards:
 - a. The size, nature, and character of the proposed use;
 - b. The proximity of the proposed use to adjoining facilities and effect of the proposed use on adjoining properties and the surrounding neighborhood;
 - c. The parking facilities provided for the proposed use;
 - d. Traffic congestion or hazards resulting from the proposed use; and

- e. How well the proposed use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.
- (3) Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the following standards:
- a. The necessity for such proposed use for the community and the surrounding neighborhood;
 - b. The proximity of the proposed use to adjoining properties and occupied dwellings;
 - c. The size, nature and character of the proposed use and its effect on adjoining properties and the surrounding neighborhood;
 - d. Potential traffic congestion or hazards which might result from the proposed use; and
 - e. Parking facilities to be provided for the proposed use.
- (4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the following standards:
- a. The size, character and nature of the proposed building;
 - b. The proximity of the proposed building to adjoining properties;
 - c. The off street parking to be provided for the proposed use;
 - d. The potential traffic congestion and hazards which might result from the proposed use;
 - e. The degree to which the proposed building and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood; and
 - f. The effect of the proposed building and use on adjoining properties and the surrounding neighborhood.
- (5) Kennels. The Planning Commission shall require compliance with the requirements of section 46-224(9) and the following additional standards:
- a. The size, nature, and character of the proposed kennel;
 - b. The proximity of the proposed kennel to adjoining properties;
 - c. The possibility of noise or other disturbance to adjoining properties and the surrounding neighborhood due to the operation of the proposed kennel;
 - d. Potential traffic congestion on account of the proposed kennel; and
 - e. The nature and character of the buildings and structures to be used for the proposed kennel operation.
- (6) Public recreation areas or golf courses when authorized by the Planning Commission as a special exception use after considering the standards outlined in section 46-224(6).
- (7) Freestanding towers.

(Zoning Ord. 1977, art. V, § 501(3); Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 144, § XII, 8-12-2015)

Sec. 46-270. - Area and bulk regulations.

In the R-1 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

- (1) Minimum lot size: five acres (217,800 square feet).

- (2) Minimum lot width: 330 feet. Irregular shaped parcels shall not have less than 66 feet at any location on the parcel.
- (3) Minimum street frontage: 300 feet in one location. Any secondary locations of street frontage must maintain a minimum width of 66 feet wide.
- (4) Minimum yard set backs.
 - a. Single-family residential:
 - 1. Front: 40 feet.
 - 2. Each side: 40 feet.
 - 3. Rear: 40 feet.
 - b. All other uses: Front, side, and rear yard setbacks shall conform with subsection (4)a of this section or the requirements of subsection (6)c of this section, or equal the height of the main building, whichever are greatest.
- (5) Dwelling dimensions and area minimums.
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. "Elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height.
 - a. Residential: 2½ stories and 35 feet.
 - b. Agricultural: 100 feet.
- (7) Maximum percentage of lot area covered by all buildings: ten percent

(Zoning Ord. 1977, art. V, § 501(4); Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999; Ord. No. 84, 3-29-2001; Ord. No. 144, § XII, 8-12-2015; Ord. No. 154, § VIII(A, B), 1-9-2019; Ord. No. 163, § VII, 1-8-2020)

Secs. 46-271—46-288. - Reserved.

Subdivision III. - R-2 Medium Density Residential District

Sec. 46-289. - Description and purpose.

The provisions of this subdivision apply to the R-2 Medium Density Residential District. The R-2 zoning district is intended for medium density, single-family residential uses together with necessary supporting recreational, religious, and educational facilities.

(Zoning Ord. 1977, art. V, § 502(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000)

Sec. 46-290. - Permitted uses.

Land, buildings, or structures in the R-2 zoning district may be used for the following purposes only:

- (1) Single-family dwellings.

- a. Each lot or parcel shall be limited to one principle dwelling.
- b. Habitable living space shall not be permitted in any accessory building.
- (2) Two-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (3) Accessory buildings and uses customarily incident to the above permitted uses. (See section 46-653, accessory buildings.)
- (4) Real estate sign, identifying sign, name plate in conformance with requirements of section 46-655.
- (5) Essential services as defined in section 46-3.
- (6) Private stables for the housing of equine animals subject to the following restrictions:
 - a. Permitted only where an owner has property with a minimum total area of 40,000 square feet, regardless of shape.
 - b. No stable shall be constructed closer than 100 feet from any adjacent dwelling, excepting outbuildings.
 - c. No animal shall be pastured closer than 50 feet from any adjacent building, excepting out buildings.
 - d. There shall be no more than two animals per 40,000 square feet of lot, or land if unplatted.
 - e. No stable shall be constructed or allowed in the front yard of any lot, or in the case of corner lots, either front yard, irrespective of the area.
- (7) Home occupations in a single-family dwelling subject to the requirements of section 46-268(8).
- (8) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 502(2); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 163, § I, 1-8-2020; Ord. No. 164, § II(C, D), 2-12-2020)

Sec. 46-291. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the R-2 district may be used for the following:

- (1) Public utility and service buildings.
- (2) Private and public schools, libraries, museums, art galleries, and similar uses, when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the same standards as provided in section 46-224(5).

- (3) Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the same standards as provided by section 46-224(6).
- (4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the same standards as provided in section 46-224(5).
- (5) Freestanding towers.
- (6) Raising chickens and other small animals for domestic use. The planning commission shall consider the following standards:
 - a. The size, character, and nature of the proposed activity, structure, and use.
 - b. The proximity of the proposed activity, structure, and use to adjoining properties.
 - c. The degree to which the proposed activity, structure, and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.

(Zoning Ord. 1977, art. V, § 502(3); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 144, § XI, 8-12-2015; Ord. No. 84, 3-29-2001; Ord. No. 163, § II, 1-8-2020)

Sec. 46-292. - Area and bulk regulations.

In the R-2 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

- (1) Minimum lot size: 20,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum street frontage: 75 feet.
- (4) Minimum yard setbacks.
 - a. Single-family residential:
 1. Front: 40 feet.
 2. Each side: ten feet.
 3. Rear: 35 feet.
 - b. All other uses: Front, side, and rear yard setbacks shall conform with subsection (4)a of this section, or the requirements of subsection (6) of this section, or equal the height of the main building, whichever are greatest.
- (5) Dwelling dimensions and area minimums.
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of main structure.
 - a. Residential: 2½ stories and 35 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: 25 percent.

(Zoning Ord. 1977, art. V, § 502(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 144, § XI, 8-12-2015)

Secs. 46-293—46-317. - Reserved.

Subdivision IV. - R-3 Low Density Residential District

Sec. 46-318. - Description and purpose.

The provisions of this subdivision apply to the R-3 Low Density Residential District. The R-3 zoning district is intended for low density, single-family residential uses together with necessary supporting recreational, religious, and educational facilities.

(Zoning Ord. 1977, art. V, § 503(1); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000)

Sec. 46-319. - Permitted uses.

Land, buildings, or structures in the R-3 zoning district may be used for the following purposes only:

- (1) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (2) Two-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (3) Accessory buildings and uses customarily incident to the above permitted uses. (See section 46-653.)
- (4) Real estate sign, identifying sign, name plate in conformance with the requirements of section 46-655.
- (5) Essential services as defined in section 46-3.
- (6) Private stables for the housing of equine animals subject to the following restrictions:
 - a. Permitted only where an owner has property with a minimum total area of 40,000 square feet, regardless of shape.
 - b. No stable shall be constructed closer than 100 feet from any adjacent dwelling, excepting outbuildings.
 - c. No animal shall be pastured closer than 50 feet from any adjacent building, excepting out buildings.
 - d. There shall be no more than two animals per 40,000 square feet of lot, or land if unplatted.
 - e. No stable shall be constructed or allowed in the front yard of any lot, or in the case of corner lots, either front yard, irrespective of the area.
- (7) Home occupations in a single-family dwelling subject to the requirements of section 46-268(8).
- (8) Accessory use solar energy systems.

- a. *Free standing.* Any accessory use solar energy system that is free standing (Not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
- b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 503(2); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 163, § VIII, 1-8-2020; Ord. No. 164, § II(E, F), 2-12-2020)

Sec. 46-320. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article XI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the R-3 district may be used for the following:

- (1) Public utility and service buildings.
- (2) Private and public schools, libraries, museums, art galleries, and similar uses, when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the same standards as provided in section 46-224(5).
- (3) Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the same standards as provided by section 46-224(6).
- (4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the same standards as provided in section 46-224(5).
- (5) Public recreational areas, or golf courses when authorized by the Planning Commission as a special exception use after considering the standards outlined in section 46-224(6).
- (6) Freestanding towers.
- (7) Raising chickens and other small animals for domestic use. The planning commission shall consider the following standards:
 - a. The size, character, and nature of the proposed activity, structure, and use.
 - b. The proximity of the proposed activity, structure, and use to adjoining properties.
 - c. The degree to which the proposed activity, structure, and use harmonizes, blends with, and enhances adjoining properties in the surrounding neighborhood."

(Zoning Ord. 1977, art. V, § 503(3); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 144, § XIII, 8-12-2015; Ord. No. 163, § IX, 1-8-2020)

Sec. 46-321. - Area and bulk regulations.

In the R-3 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

- (1) Minimum lot size: 65,000 square feet (1.49 acres).
- (2) Minimum lot width: 165 feet.
- (3) Minimum street frontage: 100 feet.
- (4) Minimum yard setbacks.

- a. Single-family residential:
 1. Front: 40 feet.
 2. Each side: ten feet.
 3. Rear: 35 feet.
 - b. All other uses: Front, side, and rear yard setbacks shall conform with subsection (4)a of this section, or the requirements of subsection (6)b of this section, or equal the height of the main building, whichever is greatest.
- (5) Dwelling dimensions and area minimums.
- a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of main structure.
- a. Residential: 2½ stories and 35 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: ten percent.

(Zoning Ord. 1977, art. V, § 503(4); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 144, § XIII, 8-12-2015)

Secs. 46-322—46-345. - Reserved.

Subdivision V. - LR Lake Residential Districts

Sec. 46-346. - Description and purpose.

The provisions of this subdivision apply to the LR Lake Residential Districts. LR zoning districts are intended to provide suitable regulations for residential development occurring adjacent to lake waterfronts within the Township; to recognize the value and desirability of existing lakefront lots and the desire of owners of such lots to maintain and make improvements to existing structures; and to control new development in an orderly manner to avoid degradation of the surface water quality and associated natural lake environment. LR districts, as shown on the Zoning Map, are intended to apply to properties with water frontage on the following lakes in Fabius Township: Boot, Clear, Corey, Little Pleasant, Long, Kaiser, Mohney, Mud, and Pleasant.

(Zoning Ord. 1977, art. V, § 504(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-347. - Permitted uses.

Use of land contiguous to a lake or pond is subject to section 46-659, riparian lot use regulations, in addition to the provisions of this section, land, buildings, or structures in the LR zoning district may be used for the following purposes only:

- (1) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.

- (2) Accessory buildings and uses customarily incident to the above permitted use, except that any accessory structure, such as a deck, storage shed, stairway, dish antenna situated in the front yard between the principal dwelling and the lake shore line may be constructed only with a special exception use permit authorized by the Planning Commission. (See section 46-348(5), accessory buildings on waterfront lots, and section 46-653, accessory buildings.)
- (3) Essential services as defined in section 46-3.
- (4) Home occupations as defined in section 46-3, subject to the requirements of section 46-268(8).
- (5) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 504(2); Ord. No. 15, 12-13-1977; Ord. No. 36, 2-17-1988; Ord. No. 65, 9-30-1997; Ord. No. 59, 7-10-1996; Ord. No. 84, 3-29-2001; Ord. No. 163, § XI, 1-8-2020; Ord. No. 164, § II(G), 2-12-2020)

Sec. 46-348. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the LR district may be used for the following:

- (1) Public utility and service buildings.
- (2) *Public or private outdoor recreation use such as parks, playgrounds, golf courses, athletic fields.* The Planning Commission shall consider the same standards as provided by section 46-224(6).
- (3) *Children's camps.* Residential, day, troop, or travel camps for more than four school-age children for five or more days within a 14-day period. These are facilities licensed by the Michigan Family Independence Agency (formerly Department of Social Services) and include Camps Eberhart, Tavor, Wakeshma, and Latvian Center Garezers, and similar camps operated by non-profit service, religious, or educational organizations. The Planning Commission shall consider the following standards:
 - a. The size, character, and nature of the proposed building(s) and use(s);
 - b. The proximity of the proposed building(s) to adjoining properties;
 - c. The parking to be provided and the potential traffic congestion and related hazards which might result from the proposed use(s);
 - d. The degree to which the proposed building(s) and use(s) harmonize, blend with, and enhance the surrounding neighborhood; and
 - e. The effect of the proposed building(s) and use(s) on adjoining properties and the surrounding neighborhood.
- (4) *Marinas providing for the berthing, mooring, launching, servicing, repairing, and storing of recreational boats and watercraft.* Marinas also include boat fueling stations, engine and hull repair shops, retail sales of boats, motors, boat accessories, boat trailers, water sports equipment, boat lifts, piers, and similar items. Marinas may also include boat rental, and sales of fishing equipment, bait, groceries, or beverages. Piers, wharves, moorings or launching ramps provided by a marina must be situated within boundaries formed by the side lot lines of the property so

used, extended toward the center of the lake. The Planning Commission shall consider the standards of subsection (3)c of this section and the following requirements:

- a. Site plan review and approval in accordance with division 2 of article II of this chapter.
 - b. Off-street parking in accordance with sections 46-685 and 46-686, and paved with concrete, hot mix asphalt, or similar and substantially equivalent hard surfaces.
 - c. Measures to protect ground and surface water from pollution by any activity related to the marina.
 - d. Adequate water supply, sewerage or septic disposal, and solid waste disposal, subject to the approval of the District Board of Health. No less than one toilet shall be provided for each 50 boat spaces or less within not less than 1,000 feet of walking distance of each boat space.
 - e. Adequate access for firefighting equipment, ambulances, and other emergency vehicles.
 - f. All lighting for external illumination of the parking area, buildings, piers, docks, boat slips, grounds, or water areas shall be directed away from and shielded from adjacent residential uses.
- (5) *Accessory buildings on waterfront lots.* Any accessory structure, regardless of size, type of construction, or portability, including, but not limited to decks, storage sheds, stairways and landings, dish antennas, etc, may be constructed or positioned in the front yard (between the principal dwelling and shoreline of the lake or stream) only if a special exception use permit is authorized by the Planning Commission. This requirement does not apply to replacements, reconstructions, seasonal docks, piers, boat lifts, and pump houses not exceeding six square feet in floor area and three feet in height. In granting a special exception use permit the Planning Commission shall consider the following standards and requirements:
- a. That the proposed structure will not conflict with the requirement for an open unobstructed yard as provided in section 46-350(1).
 - b. That there is a difference in elevation between the lowest floor level of the principal building and the grade level of the proposed site of the storage shed of at least 15 feet.
 - c. That storage sheds shall not exceed 80 square feet in floor area nor eight feet in height.
 - d. That the size, character, nature, location and use of the proposed structure is appropriate for the neighborhood and does not adversely affect adjoining properties nor the water quality of the lake or stream.

(Zoning Ord. 1977, art. V, § 504(3); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 97, 4-29-2004; Ord. No. 164, § II(H), 2-12-2020)

Sec. 46-349. - Area and bulk regulations.

In the LR district, no residential building or structure, nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setbacks, height, living area, building coverage, and other requirements:

- (1) Minimum lot size: 20,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum road frontage: 50 feet.
- (4) Minimum yard setbacks.
 - a. Front (lake side): 50 feet or the average setback distance of three nearest existing residential structures on each side (total of six), which ever is greater.

- b. Each side: ten feet. In the case of a rear yard abutting a side yard, the side yard abutting a street shall be a minimum of 35 feet. In the case of existing non-conforming width lots, the Zoning Board of Appeals may approve a variance of up to five feet from the required side-yard setback of ten feet on one side so long as 15 feet remains between any existing or proposed structures on that side.
 - c. Rear (road side): 35 feet. A minimum setback of ten feet for accessory building only, from the right-of-way or street side property line is met, is subject to section 46-653(7).
- (5) Dwelling dimensions and area minimums.
- a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of main structure: 2½ stories and 35 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: 25 percent.

(Zoning Ord. 1977, art. V, § 504(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 123, 7-1-2007)

Sec. 46-350. - Special requirements.

- (1) Residential lots or parcels having water frontage and abutting a street shall maintain the yard on the water side as an open unobstructed yard. Accessory structures shall be permitted in the yard between the abutting street right-of-way and the main building (rear yard) providing a minimum set back of 35 feet from the street right of way or street side property line is met. Setback for accessory building only, is subject to section 46-660.5.
- (2) Any principal building abutting lakes, rivers, or streams shall be set back from the shore line of the legally established lake level as required by section 46-660. Separate structures, such as freestanding decks, storage buildings, stairways, dish antennas, or similar structures may be constructed in the front yard only after a special exception use permit has been authorized by the Planning Commission in accordance with the requirements of section 46-660 and article VI of this chapter.
- (3) Off-street parking shall be permitted to occupy a portion of the street side/rear yard.
- (4) *Projections into yards.* Architectural features, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard, and may extend or project into a required front yard or rear yard not more than three (3) feet.

(Zoning Ord. 1977, art. V, § 504(5); Ord. No. 15, 12-13-1977; Ord. No. 36, 2-17-1988; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 97, 4-29-2004; Ord. No. 128, § II, 11-18-2008; Ord. No. 144, § V, 8-12-2015; Ord. No. 154, § VI, 1-9-2019)

Secs. 46-351—46-373. - Reserved.

Subdivision VI. - MH Mobile Home Residential District⁴¹

Footnotes:

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State Law reference— Local regulation of mobile homes, MCL 125.2307.

Sec. 46-374. - Description and purposes.

The provisions of this subdivision apply to the MH Mobile Home Residential District. The MH zoning district is intended to recognize the growing trend toward mobile homes and manufactured homes and to provide for well located and properly developed areas to accommodate this form of housing.

(Zoning Ord. 1977, art. V, § 505(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-375. - Permitted uses.

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

- (1) Mobile home parks.
- (2) Essential services.
- (3) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 505(2); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 163, § XII, 1-8-2020)

Sec. 46-376. - Special requirements.

Mobile home parks, including residences for mobile home park owners or managers and their families, and accessory buildings and uses, are subject to this chapter generally and the following requirements, conditions, standards, and limitations:

- (1) *Site plan review.* To ensure compliance with the requirements of this division and all applicable state statutes and regulations, preliminary plans for all new mobile home parks or expansions to existing mobile home parks must be submitted to and approved by the Planning Commission in accordance with the provisions of division 2 of article II, site plan review, as modified by the requirements in this section, before construction may commence. The site plan must include, but is not limited to the following:
 - a. The number and size of individual mobile home sites.
 - b. The source and location of the water supply and proposed fire hydrants.
 - c. The proposed location and method of sewage disposal and/or treatment with appropriate supporting data.
 - d. The location, sizes, and designs of all signs proposed to be placed upon the site.
 - e. The location and general description of all natural trees and vegetation to be retained as screening for the site, and/or plant materials to be planted for required greenbelts, or alternative proposed screening.

- (2) *The Mobile Home Commission Act.* All mobile home parks shall comply with the requirements imposed by The Mobile Home Commission Act (MCL 125.2301 et seq.), and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health, except as said act and regulations may be modified by the provision of this article.
- (3) *Landscaping and screening.* All mobile home parks shall be landscaped as follows:
- If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the development.
 - If the park abuts a nonresidential development, the park need not provide screening.
 - In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.
 - The landscaping shall consist of evergreen trees or shrubs of minimum three feet in height which are spaced so they provide a continuous obscuring screen at maturity. Alternative devices may be utilized if they conceal the mobile home park as effectively as the landscaping described above.
- (4) *Access from major streets.* Each mobile home park shall have a paved access street that enters from a state trunk line, county primary road, or county local road as designated by the St. Joseph County Road Commission as shown on the current road system certification map for Fabius Township. Such access street shall be configured as a boulevard ingress/egress access and shall provide a continuous route of travel throughout the park. Mobile home parks containing 200 or more sites, shall have a minimum of two access streets entering from a state, county, or local road as defined above.
- (5) *Mobile home sales limitations.* The business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home park is a business use not permitted in a residential district. However, new or used mobile homes situated on lots within the mobile home park to be used and occupied within the park may be sold by the owner or operator of the park, by a licensed dealer or broker, provided no more than five are offered for sale at any one time. This shall not prohibit the sale of a new or used mobile home by a resident owner, provided the park management permits such sales.
- (6) *Area requirements for sites.* Mobile home parks shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent, giving a minimum of 4,400 square feet for an individual site, provided that for each square foot of reduced area below 5,500 square feet, at least an equal area of land shall be dedicated as open space; but, in no case shall the open space and distance requirements be less than that required under R125.1946, R125.1941 and R125.1944 of the Michigan Administrative Code (Mich. Admin. Code R125.1941, R125.1944, R125.1946).
- (7) *Street requirements.* Minimum street widths shall be as follows:

	Two-way;eo;(feet)	One-way (feet)
If no parking is permitted along street	21	13
Parallel parking permitted along one side of street	31	23
Parallel parking permitted along both sides of street	41	33

- (8) *Signs.* A maximum of two separate, two-sided identification signs are allowed at each access point to a mobile home park. If two separate signs are used, each shall not exceed 16 square feet on each face. If a single two-sided sign is used, such sign shall not exceed 32 square feet in area on each face. Illumination shall be only by a continuous white light directed toward the sign and shielded in such a way that the light does not shine toward approaching vehicles or pedestrians.
- (9) *Underground utilities.* All public and private utilities shall be installed underground.
- (10) *Site improvements.* All mobile homes shall be installed so as to meet requirements of the Michigan Mobile Home Commission rules and the installation requirements of the mobile home manufacturer. Skirting shall be installed along the base perimeter of each mobile home sufficient to hide the undercarriage and supports from view.
- (11) *Paving requirements.* All streets and parking areas in a mobile home park shall be a hard paved surface of either asphalt or concrete in accordance with standards of the American Association of State Highway and Transportation Officials (AASHTO).
- (12) *Ground cover.* All exposed ground surfaces in the mobile home park shall be sodded, seeded, or covered with ornamental stone. One shade tree at least ten feet high when planted shall be provided for each two mobile home sites. Trees shall be of a type suggested in section 46-654.
- (13) *Refuse disposal.* Each mobile home park shall provide an effective system of garbage and rubbish storage, collection and disposal. Storage areas shall be screened from public view and shall meet requirements of the Department of Environmental Quality's garbage and rubbish storage and disposal requirements.
- (14) *Vehicle storage/parking.* If boats, boat trailers, utility trailers, or similar vehicles are permitted to be parked within the mobile home park, adequate parking spaces shall be provided in a central or collective parking/storage area. This area shall be in addition to the two automobile parking spaces required for each mobile home by the table in section 46-685 and shall be adequately fenced, locked, and permanently screened by a greenbelt or approved alternate.
- (15) *Building and occupancy permits.* Building permits and certificates of occupancy shall be required on all mobile homes. Mobile home park management shall notify the Township Zoning Administrator of any mobile home being moved into the park and any site improvements planned.
 - a. The Township Building Inspector shall inspect the installation of the pad and the utilities on the site prior to the placing of a mobile home on the pad.
 - b. The Township Building Inspector shall inspect the final placement of the mobile home with utilities connected, prior to installation of skirting, before issuing an occupancy certificate.

(Zoning Ord. 1977, art. V, § 505(3); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-377. - Area and bulk regulations.

In the MH district, the following apply:

- (1) Minimum lot size: 5,500 square feet unless reduced to an absolute minimum of 4,400 square feet under the conditions outlined in section 46-376(6).
- (2) Minimum lot width: Determined by side setbacks and width of mobile home.
- (3) Minimum yard setbacks: As prescribed by the Mobile Home Commission, principally in Michigan Administrative Code R 125.1941 and R 125.1944 (Mich. Admin. Code R125.1941, R125.1944).
- (4) Minimum living area: Not applicable.

(5) Maximum height: 25 feet.

(Zoning Ord. 1977, art. V, § 505(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-378. - Performance bond requirement.

The Planning Commission shall have the right and authority to require a mobile home park developer to file with the Township Clerk at the time of Planning Commission approval of the site plan for a new park or expansion of an existing park, a performance bond or bank letter of credit in such amounts as may be determined by the Planning Commission necessary for insuring the completion of work involving public amenities and for the protection of natural resources and/or the health, safety, and welfare of the residents of the Township and adjacent residents and property owners.

(Zoning Ord. 1977, art. V, § 505(5); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Secs. 46-379—46-399. - Reserved.

DIVISION 4. - RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 46-400. - Intent.

The provisions of this subdivision apply to the RM-1 Multiple-Family Residential District. The RM-1 Multiple-Family Residential District is designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and lower density single-family districts.

(Zoning Ord. 1977, art. VI, § 600; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-401. - Description and purpose.

Multiple-family residential districts are provided to serve the limited needs for the apartment type of unit in an otherwise low and medium density single-family community. Site plan review and approval is required for all multifamily development. (See division 2 of article II.)

(Zoning Ord. 1977, art. VI, § 601(1); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-402. - Permitted uses.

In a multiple-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article:

- (1) Multiple-family dwellings.
- (2) Accessory buildings and uses customarily incident to the above permitted uses.
- (3) Real estate sign, identifying sign, name plate in conformance with requirements of section 46-655.
- (4) Essential services as defined in section 46-3.
- (5) Accessory use solar energy systems.

- a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
- b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. VI, § 601(2); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 163, § XIII, 1-8-2020)

Sec. 46-403. - Special exception uses.

When authorized as a special use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings, or structures in the RM-1 district may be used for the following:

- (1) Public utility and service buildings.
- (2) Private and public schools, libraries, museums, art galleries, and similar uses when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the same standards as provided in section 46-269(2).
- (3) Parks, playgrounds, community centers, governmental administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the same standards as provided by section 46-269(3).
- (4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the same standards as provided in section 46-269(4).
- (5) Housing for the elderly when the Planning Commission determines that the following conditions are met:
 - a. All housing for the elderly shall be provided as a planned unit development and may provide for the following:
 1. Cottage-type dwellings and/or apartment type dwelling units and/or townhouse-type dwelling units, and/or condominiums.
 2. Common services containing but not limited to: central dining rooms, recreational rooms, lounges, workshops, laundry rooms, swimming pools.
 - b. All dwellings shall consist of at least 350 square feet per unit, not including kitchen and sanitary facilities.
- (6) Convalescent homes, nursing homes, hospices, and orphanages when the Planning Commission determines that the following conditions are met:
 - a. No buildings shall be closer than 40 feet to any property line.
 - b. For each bed provided, there shall be on the site at least 1,500 square feet of open space to provide for landscaping, off-street parking, service drives, loading space, yards, and accessory uses, not including the area covered by main or accessory buildings.
- (7) Accessory buildings and uses customarily incident to any of the above special exception uses.

(Zoning Ord. 1977, art. VI, § 601(3); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-404. - Area and bulk regulations.

In the RM-1 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following rooms per dwelling unit, lot area, width, frontage, setback, height, living area, minimum separation distance, and lot coverage requirements:

- (1) Minimum rooms required per dwelling unit. All units shall have at least one living room and one bedroom, except that not more than ten percent of the dwelling units may be of a one-room efficiency apartment type.
- (2) Minimum living area per dwelling unit.
 - a. Efficiency apartment: 400 square feet.
 - b. One room apartment: 650 square feet.
- (3) Minimum lot size.
 - a. For developments not exceeding three dwelling units (six rooms): 20,000 square feet.
 - b. For developments of more than three dwelling units (six rooms): 20,000 square feet plus 3,000 square feet for each additional room exceeding six.
- (4) For the purpose of computing required lot size, kitchen, dining, storage, or sanitary facilities shall not be counted; however, the following room totals shall be used:
 - a. Efficiency apartment: 1 room.
 - b. One-bedroom apartment: 2 rooms.
 - c. Two-bedroom apartment: 3 rooms.
 - d. Three-bedroom apartment: 4 rooms.
 - e. Four-bedroom apartment: 5 rooms.
 - f. Dens, libraries, or other extra rooms shown on plans will be counted as bedrooms for the purpose of determining lot size requirements.
- (5) Minimum lot width: 100 feet.
- (6) Minimum street frontage: 100 feet.
- (7) Minimum yard setbacks.
 - a. Front: 50 feet.
 - b. Each side: 30 feet.
 - c. Rear: 30 feet.
- (8) Maximum building height: 2½ stories and 40 feet. (See section 46-3 for definition of building height.)
- (9) Minimum separation distance between buildings shall be the greater of 30 feet or the distance "S" determined by the length and height of such buildings based on the following formula:

S	=	$\frac{L_A + L_B + 2(H_A + H_B)}{6}$
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Where:

S = required minimum horizontal distance between any wall of Building A and any wall of Building B or the vertical prolongation of either.

L_A = total length of Building A

The total length of Building A is the length of that portion of a wall or walls of Building A from which, when viewed directly from above, lines drawn perpendicular to Building A will intersect any wall of Building B.

L_B = total length of Building B

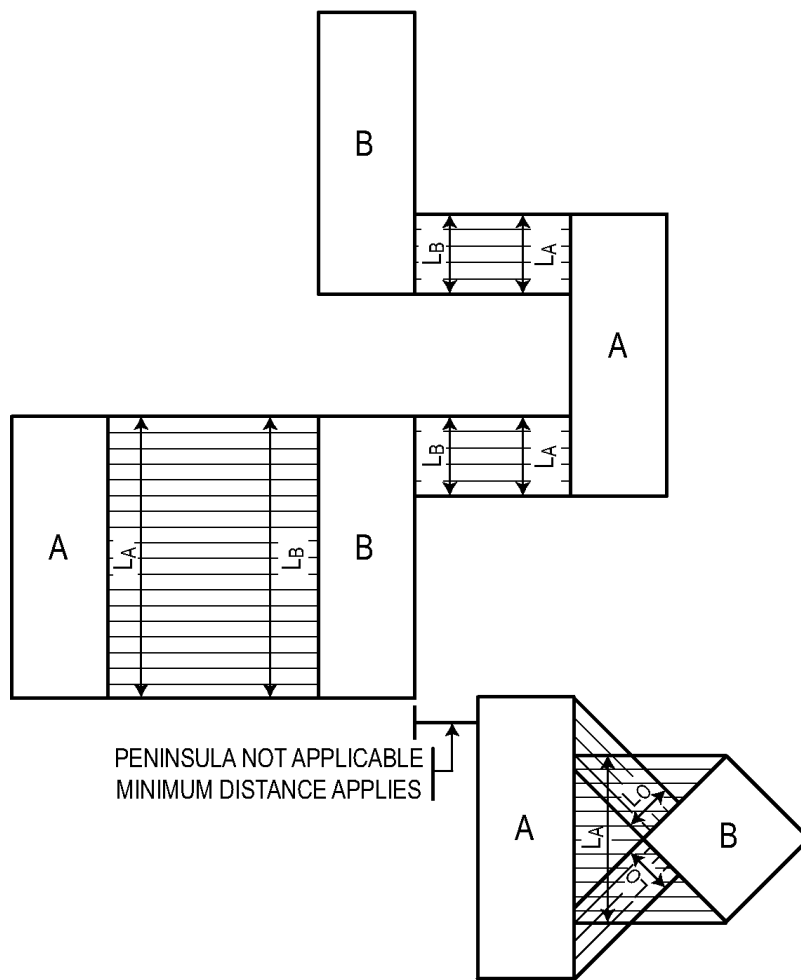
The total length of Building B is the length of that portion or portions of a wall or walls of Building B from which when viewed directly from above, the lines drawn perpendicular to Building B will intersect any wall of Building A.

H_A = height of building A

H_B = height of building B

- (10) Maximum percentage of lot area that may be covered by all buildings: 25 percent, not including that dedicated to access roads.
- (11) Off-street parking may be permitted within required side or rear yards but may not cover more than 30 percent of the area of such yards nor be within any required minimum separation distance between buildings. A minimum of two parking spaces per dwelling unit shall be provided.

Distance Spacing for Multiple Dwellings



$$\text{MINIMUM DISTANCE BETWEEN BUILDINGS} = \frac{L_A + L_B + 2(H_A + H_B)}{6}$$

(Zoning Ord. 1977, art. VI, § 601(4); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-405—46-421. - Reserved.

DIVISION 5. - BUSINESS DISTRICTS

Subdivision I. - In General

Sec. 46-422. - Intent.

This division provides for four types of business or commercial districts to provide for the orderly development of retail, service, and other non-industrial businesses. The primary business district is established along the U.S. 131 and M-60 highway corridors as a normal adjunct to and extension of

commercial development in the adjacent city of Three Rivers. Fabius Township is primarily a residential and agricultural community which does not need nor intend to develop extensive shopping and service facilities independent from Three Rivers. However, the division also provides for small special SSB business districts to meet special or local needs, RB resort business districts to serve primarily lake related needs, and provides guidelines for requesting a shopping center district in the event one is planned and can be justified.

(Zoning Ord. 1977, art. VIII, § 800; Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-423. - General requirements.

- (a) All proposed development in any business district requires site plan review and approval in accordance with division 2 of article II of this chapter.
- (b) All proposed development in any business district must provide off-street parking according to the requirements and standards of section 46-685, off street parking requirements, and section 46-686, off street parking space layout, standards, construction and maintenance. All driveways, access and service roads, and parking lots must be paved with concrete, hot mix asphalt, or similar and substantially equivalent hard surfaces.
- (c) All proposed development in any business district must provide off-street loading and unloading space in accordance with section 46-687, off-street loading and unloading, unless no receipt or distribution of vehicles, materials, or merchandise is involved.
- (d) All proposed development in any business district must provide measures to protect groundwater from pollution by any fluids or compounds used in or effluent discharged by the proposed use.
- (e) All proposed development in any business district must provide for adequate water supply, sewerage or septic disposal, and solid waste disposal. Where municipal water and sewer services are reasonably available as defined by section 12751 of the Public Health Code (MCL 333.12751), connection to these services is mandatory, unless otherwise waived by the Planning Commission as part of site plan review.
- (f) All proposed development in any business district must provide adequate access for fire fighting equipment, ambulances, and other emergency vehicles.

(Zoning Ord. 1977, art. VIII, § 801; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-424—46-444. - Reserved.

Subdivision II. - B Business District

Sec. 46-445. - Description and purpose.

The provisions of this subdivision apply to the B Business District. The B Business District is intended to provide for the orderly development of small and medium sized businesses primarily serving local needs.

(Zoning Ord. 1977, art. VIII, § 802(1); Ord. No. 65, 9-30-1997)

Sec. 46-446. - Permitted uses.

In the B district, no building shall be erected, or land or building used except for one or more of the following specified uses, unless otherwise specifically provided in this subdivision:

- (1) Offices or office buildings for any of the following occupations or professions: executive, administrative, accounting, architectural, consulting, clerical, dental, employment, engineering, governmental, insurance, investment, legal, medical, optical, physical therapy, real estate, or similar occupations and professions.
- (2) Retail shops and stores which supply commodities on the premises, such as, but not limited to: groceries, meats, dairy products, baked goods or other foods; drugs; dry goods; clothing; notions; hardware; sports equipment (but not vehicles or watercraft); antiques, collectibles; books, magazines; furniture, appliances; auto parts; jewelry; gifts; floral products; optical goods; photographic equipment; computers and other electronics; and similar consumer goods.
- (3) General service businesses which provide services such as, but not limited to: banks; savings and loan companies; loan companies; tool, equipment or furniture rental; video rental; printing, duplicating, copying; and other services similar to the foregoing.
- (4) Personal service businesses which provide services on the premises, such as, but not limited to: beauty parlors and barbershops; tanning studios; dietary advice; health and fitness studios; dressmakers, tailor shops; laundry or dry cleaning pick-up points; and other uses similar to the foregoing.
- (5) Artisan, tradesman, or repair work shop, studio, or office, such as, but not limited to: cabinet maker, electrician, decorator, painter, upholsterer, photographer, repair shops of various kinds such as watches, home appliances, electronics equipment, small engines, and other uses similar to the foregoing; but excluding automobile, truck and other vehicle repair shops, body shops, brake and muffler repair, auto tire sales and service shops.
- (6) Accessory structures and uses customarily incident to the above permitted uses.
- (7) Temporary uses and structures shall be permitted with the following restrictions:
 - a. Proof of liability insurance must be provided with the application.
 - b. Site must be returned to the same condition as it was prior to the temporary use.
 - c. Temporary use limited to 30 days maximum. Extensions of time may be granted by the zoning administrator at his/her discretion for reasonable cause.
 - d. Site should provide for adequate off-road parking for intended temporary use.
- (8) Essential services. (See section 46-3 for definition.)
- (9) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage."

(Zoning Ord. 1977, art. VIII, § 802(2); Ord. No. 65, 9-30-1997; Ord. No. 154, § IV(A, B), 1-9-2019; Ord. No. 163, § XIV, 1-8-2020)

Sec. 46-447. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter, after considering the below listed general standards and any additional standards or conditions specifically applicable to the particular uses, land, buildings, or structures in the B Business District may be used for those uses listed beginning with subsection (2) of this section:

- (1) *General standards.* In authorizing a special exception use, the Planning Commission shall consider the following conditions and standards:

- a. The size, character, and nature of the proposed building(s);
 - b. The proximity of the proposed building(s) to adjoining properties;
 - c. The adequacy of green area to be provided (see section 46-448(4));
 - d. The location and dimensions of access and egress drives from adjoining public streets or highways and the adequacy of off street parking to be provided for the proposed use (see section 46-685, off street parking requirements and section 46-686, off-street parking space layout, standards, construction, and maintenance);
 - e. The proposed traffic patterns and the potential traffic congestion and hazards which might result from the proposed use; and
 - f. The effect of the proposed building and use on adjoining properties and the surrounding neighborhood, to include signage, lighting, and screening (see sections 46-655, signs; 46-650, exterior lighting; and 46-656, walls).
- (2) Public utility and service buildings.
 - (3) Gasoline service stations, with or without auto repair, automobile and other vehicle repair shops; major auto repair, engine rebuilding, auto body repair facilities, brake and muffler repair shops, quick oil change and lubrication shops, tire sales and service shops, and similar uses. The Planning Commission shall consider the following additional conditions and standards:
 - a. The adequacy of storage or parking area provided for vehicles awaiting repair as well as the security and screening provided for vehicles and supplies used in the operation.
 - b. The adequacy of space provided for vehicles waiting in line for service.
 - (4) Car wash facility, automatic, or self-service, fully or partially enclosed. The Planning Commission shall consider the adequacy of space provided for vehicles waiting in line for service.
 - (5) Restaurants and other food service establishments, with or without drive-up service. The Planning Commission shall consider the adequacy of space provided for vehicles waiting in line for service.
 - (6) Sales of new or used automobiles, trucks, boats, farm equipment, mobile homes, house trailers, recreational vehicles and similar items involving both indoor and outdoor display.
 - (7) Sales of lumber, building materials, farm or garden supplies, nursery stock and plant materials and similar products normally requiring large storage structures and some open storage.
 - (8) Commercial recreation facilities such as a bowling alley, billiard hall, video game emporium, health club, gymnasium, indoor archery range, indoor tennis, indoor skating rink, and similar commercial recreation.
 - (9) Motel, hotel, bed and breakfast, or similar overnight lodging for the travelling public.
 - (10) Public storage, mini-storage facilities.
 - (11) Building or excavating contractor equipment yard, storage and repair sheds.
 - (12) Self-service laundry and dry cleaning facilities (laundromats) and consumer oriented laundry and dry cleaning establishments.
 - (13) Mortuary establishments, with or without crematoria.
 - (14) Veterinary clinics, animal hospitals, kennels. The Planning Commission shall consider the additional standards listed in section 46-224(9), and section 46-269(5).
 - (15) Churches, parish houses, temples, or similar buildings for religious use.
 - (16) Private clubs, fraternal organizations, and lodge halls.
 - (17) Residential dwelling units for resident owners, managers, caretakers, or similar residential use, subject to the following additional standards and conditions:

- a. Dwelling units must be designed to constitute a well planned part of the proposed commercial development, whether separate, attached, or located on an upper floor.
 - b. Provisions must be made for safe and adequate green space and play area for children.
 - c. The Planning Commission may impose any required setbacks and/or performance standards so as to ensure public health, safety, and general welfare.
- (18) *Primary use solar energy systems.* The planning commission shall consider the following standards and may issue conditions for approval.
- a. *Land size and area.* The applicant should demonstrate, through the site plan of proposed conditions, that the size, shape, and area of the land are sufficient for the proposed use.
 - b. *Compatibility.* The proposed development should not be detrimental to the surrounding properties and neighborhood.
 - c. *Land/lot coverage.* Solar panels shall not apply to lot coverage calculations. Only the associated buildings and other structures shall be included in the lot coverage calculations.
 - d. *Height restriction.* All buildings and other structures shall be subject to the height restrictions of the district they are located within. Solar panel assemblies shall not exceed 16 feet in height.
 - e. *Safety and security.* Adequate fencing, signage, and safety measures shall guard the facility. Operator shall be required to accommodate access requirements of local fire, police, and ambulance services.
 - f. *Code compliance.* The special exception use permit shall be conditioned upon obtaining all necessary permits and approvals from all levels of government and maintaining compliance thereof.
 - g. *Setbacks.* All solar panels and associated buildings and structures shall be located at least 125 feet from any adjoining property line and be no less than 75 feet from any road, street, or highway right of way line. Fencing and other security measures shall not apply to the required setback.
 - h. *Drainage infrastructure.* No part of the planned use, buildings, solar panels, or other structures shall impede, interfere with, or be placed upon any drainage features under the control of the county drain commissioner.
 - i. *Landscaping.* A vegetative buffer and screening shall be constructed around the perimeter of the facility. Naturally occurring existing woodland areas are acceptable as screening and buffering. The applicant shall include with the application a maintenance plan for the proposed development including snow removal, mowing, and weed control.
 - j. *Environmental impact.* Applicant shall meet all permits and requirements of the Fabius Township Wetlands protection ordinance along with all permits and requirements of the Department of Environmental Quality and the Department of Natural Resources of the State of Michigan.
 - k. *Noise.* At no time during the operation of the planned facility shall the noise exceed 50 decibels as measured at the property line.
 - l. *Glare.* Solar panels shall be located and placed so that the concentrated solar glare shall not be directed toward or onto nearby properties or roadways.
 - m. *Decommissioning.* The applicant shall submit a decommissioning plan to ensure the solar energy system components are properly removed and disposed of after their useful life. The plan shall include provisions for the removal of all structures and foundations, restoration of the soil and vegetation to its original condition, timeframe for completion of the decommissioning, estimated costs, and a surety bond (or other security acceptable to the Planning Commission) to cover the cost of all decommissioning activities. The decommissioning cost estimate shall be prepared by the applicant's engineer. The

decommissioning plan and the surety bond amount are subject to approval by the Planning Commission. The plan shall also include a self-conducted decommissioning cost review every five years to be submitted to the Planning Commission for approval, with the surety bond adjusted as needed to cover all costs.

- n. *Annual report.* The operator of the facility shall submit a brief written report to the Planning Commission each year the facility is in operation. The report shall indicate the amount of power generated each month of the reporting period in units of megawatt-hours. The annual report shall also list all complaints received and actions taken to mitigate those complaints. The report shall also list any violations from any governmental agency received during the reporting period and the actions taken to mitigate those violations. Each fifth-year annual report shall include the decommissioning cost review from paragraph "M" above.
- o. *Application fee.* The applicant shall remit the appropriate fee for the special exception use permit pursuant to the fee schedule approved by the Township board. If required by the Planning Commission the applicant shall set up an escrow account with the township to cover all reasonable fees and expenses incurred by the township relating to the application. At its sole discretion, the Planning Commission may require funds be deposited into the escrow account as needed.
- p. *Inspections.* The applicant shall make the facility available to inspections by township officials upon written notice and during normal business hours or at such day and time as mutually agreed upon by both parties. The Planning Commission may, at its discretion, require physical inspection by a township official during the fifth-year report mentioned above.
- q. *Site plan review.* The applicant shall submit an engineered site plan(s) that reflect all existing conditions and all proposed conditions. The site plan(s) shall be prepared at the applicants cost by a registered engineer and requires approval by the Planning Commission.
- r. *Deviations.* Any deviations from the approved plans shall require the submittal of a revised site plan(s) for approval by the Planning Commission.

(Zoning Ord. 1977, art. VIII, § 802(3); Ord. No. 65, 9-30-1997; Ord. No. 163, § XV, 1-8-2020)

Sec. 46-448. - Area and bulk regulations.

In the B district, no building or structure, nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setbacks, height, building coverage, and other requirements:

- (1) Minimum lot size: Determined by minimum lot width, setbacks, and proposed building size.
- (2) Minimum lot width: 66 feet.
- (3) Minimum road frontage: 66 feet.
- (4) Minimum green belt: A green belt of at least 25 feet in depth must be provided in the front yard beginning at the street right-of-way.
- (5) Minimum setbacks.
 - a. Front: 50 feet.
 - b. Side: 20 feet.
 - c. Rear: 25 feet.
- (6) Maximum height of main structure: Three stories, 40 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: Not applicable.

(Zoning Ord. 1977, art. VIII, § 802(4); Ord. No. 65, 9-30-1997)

Secs. 46-449—46-479. - Reserved.

Subdivision III. - SSB Small Special Business District

Sec. 46-480. - Description and purpose.

The provisions of this subdivision apply to the SSB Small Special Business Districts. The SSB districts are intended to provide for small business enterprises that exist or may be established outside the primary B district to meet local or neighborhood convenience shopping or service needs. These are enterprises that have more customer traffic than would be permitted for a home occupation or a cottage industry, but because of their nature would not be feasible nor appropriate to locate in the primary B district.

(Zoning Ord. 1977, art. VIII, § 803(1); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-481. - Requirements.

- (a) The provisions of section 46-423 also apply to this section.
- (b) Structures being considered for construction or conversion for small business use:
 - (1) Shall be situated on a lot not exceeding two acres that has frontage on and is served by a hard surfaced road;
 - (2) Shall not exceed 1,500 square feet in total floor area;
 - (3) Shall have the appearance of a residential structure and be compatible with the surrounding neighborhood;
 - (4) Shall be intended for the following uses:
 - a. Retail convenience, such as groceries, beverages, bait, tackle, books and magazines, video rental.
 - b. Small professional offices, such as accounting, architectural, consulting, electrical, engineering, insurance, investment, legal, physical therapy, real estate, tax advisory, or similar occupations and professions not involving heavy client traffic.
 - c. Personal service businesses such as beauty shops, barbershops, tanning studios, dietary advice, dress maker/tailor shops and other similar uses.
 - d. Artisan, tradesman, or repair workshop such as cabinet maker, decorator, upholsterer, photographer, electronic or home appliance repair, but excluding repair of internal combustion engines or vehicles.

(Zoning Ord. 1977, art. VIII, § 803(2); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-482. - Parallel application procedure.

The owner or owners of a tract of land may submit simultaneously to the Planning Commission separate but related requests for:

- (1) An amendment to the Zoning Map which would establish a small special business district;
- (2) A request for a special exception use. The requests shall include a full explanation of the type of business use proposed and its justification by reasons of community need, market potential, and location. The special exception use request shall be accompanied by a sketch site plan in accordance with division 2 of article II of this chapter.

(Zoning Ord. 1977, art. VIII, § 803(3); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-483. - Review and approval.

- (a) As a convenience to applicants, the Planning Commission shall review the requests simultaneously as a request to amend the Zoning Map and as a special exception use. Applicants must be aware, however, that a request to amend the Zoning Map, if favorably recommended by the Planning Commission, must be reviewed by the County Planning Commission approved and enacted by the Township Board. The Planning Commission is empowered to give approval only for the special exception use, which, if granted, is contingent on amendment of the Zoning Map by the Township Board.
- (b) Regarding the special exception use, the Planning Commission shall consider the following standards:
 - (1) The size, character and nature of the proposed building and its proposed use;
 - (2) The proximity of the proposed building to adjoining properties;
 - (3) The off-street parking to be provided for the proposed use;
 - (4) The potential traffic congestion and hazards which might result from the proposed use;
 - (5) The degree to which the proposed building and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood;
 - (6) The benefits which the proposed building and use are expected to bring to the community; and
 - (7) The effect of the proposed building and use on the adjoining properties and the surrounding neighborhood.
 - a. If the Planning Commission determines that the proposed development would reasonably meet legitimate actual or projected neighborhood or community needs for shopping or services without detriment to the surrounding neighborhood, the Planning Commission shall hold a public hearing on the application for a Zoning Map amendment in accordance with section 202 of the Michigan Zoning Enabling Act (MCL 125.3202). Upon completion of these procedures, the Planning Commission shall recommend to the Township Board either approval or disapproval of the application for a Zoning Map change.
 - b. The Township Board is the only authority empowered to approve or disapprove a Zoning Map change.
 - c. A special exception use approved by the Planning Commission for a special small business district may not be changed except with the approval of the Planning Commission.

(Zoning Ord. 1977, art. VIII, § 803(4); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-484. - Area and bulk regulations.

The area and bulk regulations of the SSB district shall be the same as those of the abutting district.

(Zoning Ord. 1977, art. VIII, § 803(5); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Secs. 46-485—46-506. - Reserved.

Subdivision IV. - SC Shopping Center District

Sec. 46-507. - Description and purpose.

- (a) The provisions of this subdivision apply to the SC Shopping Center District. The SC Shopping Center District is intended to provide for the orderly development of grouped retail sales and service establishments at logical and sound locations within the Township. Typically, such planned centers are located on a single, unified site and are designed and constructed as an integrated unit for shopping and other business activity. The group of store and other business units which make up such a center may range from the relatively small neighborhood shopping center to medium to large scale shopping centers intended to serve the shopping needs of a multi-community region.
- (b) The unique and changing characteristics of this type of business activity calls for standards and procedures which are intended to promote safe and convenient access to shopping and business facilities while avoiding and minimizing undue traffic congestion or other adverse effects upon property within adjacent zoning districts.

(Zoning Ord. 1977, art. VIII, § 804(1); Ord. No. 65, 9-30-1997)

Sec. 46-508. - Application procedure.

The owner or owners of a tract of land which totals five acres or more may submit to the Planning Commission a request for an amendment to the Zoning Map which would establish a planned shopping center district. The site requested shall be on or near a major thoroughfare, U.S. Highway 131 or state highway M-60. Such request shall be accompanied by the following supporting documents, evidence, and data, without which an application shall not be accepted by the Planning Commission:

- (1) A market analysis by a recognized, reputable market analyst setting forth conclusively the economic justifications and needs for the establishment of a shopping center of the size and type proposed by the applicant. This analysis shall be based upon, but not limited to, such factors as: the trade area of the community and travel time from various parts thereof to the proposed site; general development trends and anticipated population changes; economic trends and disposable income characteristics; expected sales volumes as indicated by forecasted demands for various types of retail merchandise; existing or anticipated competing commercial facilities within a reasonable driving distance; and other data and analyses which relate to the need for, as well as the feasibility of the success and stability of, the proposed shopping center.
- (2) A site plan in accordance with the provisions of division 2 of article II of this chapter, site plan review. It is recommended that persons or corporations contemplating applying for a shopping center district utilize the optional sketch plan review procedure provided for in section 46-71(a).
- (3) A traffic survey prepared by qualified experts indicating the effects of the proposed shopping center on adjacent roadways and streets and also indicating the anticipated points of origin, direction, and amount of traffic flow to and from the proposed shopping center.
- (4) A list of proposed uses expected to be included in the proposed shopping center indicating the area to be devoted to retail space for each proposed use.
- (5) A statement of financial responsibility concerning the financing of the construction of the proposed shopping center to indicate the capability to complete construction in accordance with the site plan and the requirements of this article and the Planning Commission.

(Zoning Ord. 1977, art. VIII, § 804(2); Ord. No. 65, 9-30-1997)

Sec. 46-509. - Review and approval.

- (a) The Planning Commission shall review the evidence and supporting data outlined above and, if satisfied with the adequacy of the preliminary sketch site plan, shall hold a public hearing on the application for a Zoning Map amendment, in accordance with section 202 of the Michigan Zoning Enabling Act (MCL 125.3202). Upon completion of these procedures, the Planning Commission shall

recommend to the Township Board either approval or disapproval of the application for a Zoning Map change.

- (b) If the Planning Commission recommends approval of the Zoning Map change, and the Township Board, following review by the St. Joseph County Planning Commission, approves and enacts the change, the applicant must then submit detailed engineered site plans in accordance with the requirements of division 2 of article II of this chapter, site plan review, and obtain Planning Commission approval of site plans before a building permit may be issued. The applicant for a building permit may be required to file a performance bond in accordance with section 46-621(g).
- (c) If the original submission of evidence and supporting data required by subsection (b) of this section, or any later submission required by this article or the Planning Commission, is more than three years old by the time final site plans are submitted to the Planning Commission, the applicant shall provide updated, current data. The Planning Commission shall determine whether the revised data is sufficiently changed to warrant reconsideration of the application, and if so, shall conduct another public hearing to consider the evidence and supporting data and make findings as to whether they meet the standards and intent of the shopping center district, and shall make a recommendation to the Township Board on whether to rescind its previous amendment to the Zoning Map.

(Zoning Ord. 1977, art. VIII, § 804(3); Ord. No. 65, 9-30-1997)

Secs. 46-510—46-526. - Reserved.

Subdivision V. - RB Resort Business District

Sec. 46-527. - Description and purpose.

The provisions of this subdivision apply to the RB Resort Business District. The RB Resort Business District is intended to provide for limited business uses that may be needed and appropriate for selected areas bordering or near to inland lakes in the Township.

(Zoning Ord. 1977, art. VIII, § 805(1); Ord. No. 72, 6-26-1999)

Sec. 46-528. - Permitted uses.

In RB districts, no building shall be erected or land or building used except for one or more of the following specified uses, unless otherwise specifically provided in this article:

- (1) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (2) Accessory structures and uses customarily incident to the above permitted uses.
- (3) Essential services as defined in section 46-3.
- (4) Home occupations as defined in section 46-3, subject to the requirements of section 46-268(8).
- (5) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. VIII, § 805(2); Ord. No. 72, 6-26-1999; Ord. No. 84, 3-29-2001; Ord. No. 163, § XVI, 1-8-2020; Ord. No. 164, § II(I), 2-12-2020)

Sec. 46-529. - Special exception uses.

When authorized by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this chapter, land, buildings, or structures in RB districts may be used for the following, subject to the general conditions and standards to be considered by the Planning Commission as contained in section 46-447(1):

- (1) Motel, hotel, lodge, bed and breakfast or similar overnight lodging, not to exceed 20 units.
- (2) Restaurants and other food service establishments.
- (3) Retail convenience stores, such as groceries, beverages, bait, tackle, books and magazines, video rental.
- (4) Marinas providing for the berthing, mooring, launching, servicing, repairing, storing and rental of recreational boats and watercraft with requirements and standards as outlined in section 46-348(4).
- (5) Campgrounds, public or private, not to exceed 50 sites, subject to requirements contained in section 46-620(c).
- (6) Residential dwelling units for resident owners, managers, caretakers, or similar residential uses, subject to the standards outlined in section 46-447(17).

(Zoning Ord. 1977, art. VIII, § 805(3); Ord. No. 72, 6-26-1999)

Sec. 46-530. - Area and bulk requirements.

- (a) In RB districts having water frontage, the requirements of section 46-660, lake residential districts, apply.
- (b) In RB districts without water frontage, the requirements of section 46-660, apply.

(Zoning Ord. 1977, art. VIII, § 805(4); Ord. No. 72, 6-26-1999; Ord. No. 144, § VI, 8-12-2015)

Secs. 46-531—46-553. - Reserved.

DIVISION 6. - I-1 LIGHT INDUSTRIAL DISTRICT

Sec. 46-554. - Intent.

The provisions of this section apply to the I-1 Light Industrial District. The I-1 Light Industrial District is designed to provide for light manufacturing, wholesaling, warehousing, research and testing, and other industrial operations whose external physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 district is intended to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and or treatment of finished or semi-finished products.

(Zoning Ord. 1977, art. IX, § 900; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-555. - Description and purpose.

The general goals of the I-1 Light Industrial District include the following specific purposes:

- (1) To provide sufficient space, in appropriate locations, to accommodate orderly development of light industrial uses in support of a diverse economy and tax base.
- (2) To accommodate manufacturing development which is free from the danger of fire, explosion, toxic and noxious materials, radiation, and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.
- (3) To protect abutting residential districts by separating them from industrial activities and by prohibiting the use of such designated industrial districts for new residential development.
- (4) To promote the most desirable use of land in accordance with a well considered plan. To protect the character and established patterns of development, and in each area to conserve the value of land and buildings and other structures and to protect the Township's agricultural and residential character.

(Zoning Ord. 1977, art. IX, § 901(1); Ord. No. 65, 9-30-1997)

Sec. 46-556. - General requirements.

- (a) All proposed development in any industrial district requires site plan review and approval in accordance with division 2 of article II of this chapter.
- (b) All proposed development in any industrial district must provide off-street parking according to the requirements and standards of section 46-685, off-street parking requirements, and section 46-686, off-street parking space layout, standards, construction and maintenance. All driveways, access and service roads, and parking lots must be paved with concrete, hot mix asphalt, or similar and substantially equivalent hard surfaces.
- (c) All proposed development in any industrial district must provide off-street loading and unloading space in accordance with section 46-687, off-street loading and unloading.
- (d) All proposed development in any industrial district must provide measures to protect groundwater from pollution by any fluids or compounds used in or effluent discharged by the proposed use.
- (e) All proposed development in any industrial district must provide for adequate water supply, sewerage or septic disposal, and solid waste disposal. Where municipal water and sewer services are reasonably available as defined by section 12751 of the Public Health Code (MCL 333.12751), connection to these services is mandatory.
- (f) All proposed development in any business district must provide adequate access for firefighting equipment, ambulances, and other emergency vehicles.

(Zoning Ord. 1977, art. IX, § 901(2); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-557. - Permitted uses.

In I-1 districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article.

- (1) Basic research, design, pilot or experimental development when conducted within a completely enclosed building.
- (2) Laboratories, experimental, film, or testing.
- (3) Warehousing, storage, and transfer with associated trucking facilities.
- (4) Wholesaling, with associated trucking facilities

- (5) Light manufacturing provided all material being used, semi-finished or raw commodities, and all finished products are stored within an enclosed building or screened in accordance with section 46-656, walls.
- (6) Central dry cleaning plants or laundries, provided such plants shall not deal directly with consumers at retail.
- (7) Public utilities, including buildings, necessary structures, storage yards, and other related uses.
- (8) Municipal uses, such as water treatment plants, storage tanks, other municipal buildings and uses, including outdoor storage, but not including sewage treatment plants.
- (9) Public or privately operated recycling facilities.
- (10) Essential services.
- (11) Storage facilities for building materials, sand, gravel, stone, lumber,
- (12) Storage of contractor's equipment and supplies
- (13) Greenhouses and plant nurseries.
- (14) Trade or industrial schools.
- (15) Freestanding nonaccessory signs, subject to the requirements of the Highway Advertising Act of 1972 (MCL 252.301 et seq.) and section 46-655, signs.
- (16) Other uses of a similar and no more objectionable character than the above uses.
- (17) Accessory buildings and uses customarily incident to any of the above permitted uses.
- (18) Existing dwelling units so used at the date of adoption of the ordinance from which this chapter is derived (December 1977).
- (19) Agriculture.
- (20) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy systems that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. IX, § 901(3); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 163, § X, 1-8-2020)

Sec. 46-558. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter, after considering the below-listed general standards and any additional standards or conditions specifically applicable to the particular uses, land, buildings, or structures in the I-1 Light Industrial District may be used for those uses listed beginning with subsection (2) of this section:

- (1) *General standards.* In authorizing a special exception use, the Planning Commission shall consider the following conditions and standards:
 - a. The size, character, and nature of the proposed building;
 - b. The proximity of the proposed building to adjoining properties;
 - c. The adequacy of green area to be provided (see subsection (1)d of this section);

- d. The location and dimensions of access and egress drives from adjoining public streets or highways and the adequacy of off-street parking to be provided for the proposed use (see section 46-685, off street parking requirements and section 46-686, off-street parking space layout, standards, construction, and maintenance);
 - e. The proposed traffic patterns and the potential traffic congestion and hazards which might result from the proposed use; or
 - f. The effect of the proposed building and use on adjoining properties and the surrounding neighborhood, to include signage, lighting, and screening (see sections 46-655, signs; 46-650, exterior lighting; and 46-656, walls.)
- (2) Auto engine, body repair and undercoating shops, when completely enclosed.
 - (3) Scrap or salvage (junk) yards, provided they meet all applicable requirements of Public Act No. 219 of 1966 (MCL 252.201 et seq.).
 - (4) Other uses of a similar character to the above uses, similarity to be determined by the Planning Commission.
 - (5) Transmitting towers for commercial radio and television, commercial wireless telecommunications, and for public utility microwave or television, subject to the following conditions:
 - a. *Co-location.* To minimize the proliferation of towers within the Township, the following shall apply:
 - 1. Towers shall not be established unless the antenna cannot be accommodated on an existing or approved tower because the structural capacity would cause interference; existing towers cannot accommodate the planned equipment at the height necessary; or for other unforeseen reasons.
 - 2. Towers shall be designed and constructed to accommodate both the applicant's equipment and that of a minimum of two other users.
 - 3. Antennas to be placed on roofs, walls, and existing towers must meet the requirements of this section, to include a site plan and a report of a qualified professional engineer.
 - b. *Design standards.* All steel towers and antenna supporting structures shall be designed to meet the current structural standards of the Tele-communications Industry Association and Electronic Industries Association known as TIA/EIA-222 or its successor. Towers for cellular phone, wireless internet, or similar uses shall be of the unguyed solid monopole design.
 - c. *Minimum setback distances.*
 - 1. Towers shall be set back from all property lines and street rights-of-way a minimum of the total height of the structure, to include any antenna projecting above the top of the tower. Required setback shall be measured from the outer perimeter of the base of the tower, not its center point, to property lines or rights-of-way. When a tower is to be mounted on another structure, the total height shall be the combined heights of the structure, tower, and projecting antennas.
 - 2. Anchorages for guyed towers must be on the same parcel of land as the tower and set back from property lines a minimum of 20 feet.
 - 3. Accessory buildings shall be set back in accordance with the requirements of subsection (5)d of this section.
 - d. *Security fencing.* The tower base and any accessory buildings shall be enclosed by a security fence consisting of a six-foot tall chain link fence topped with three strands or barbed wire, or an eight-foot tall chain link fence.

- e. *Obscuring screen.* A seven-foot tall obscuring screen of evergreens and shrubs shall be established to screen the tower base and associated accessory buildings from any residential district or public property located within 500 feet of the tower.
 - f. *Lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights or other warning lights unless specifically required by the Federal Aviation Administration, or other federal or state agency having authority over a particular tower.
 - g. *Signs.* The use of any portion of the tower for signs other than the minimum required for warning or equipment information is prohibited.
 - h. *Removal of unused or abandoned towers.* Towers or portions of towers and associated facilities that are no longer used or have been abandoned shall be removed within 12 months of the cessation of operations, unless an extension of the 12-month period has been approved by the Township Zoning Board of Appeals. At the time an application for construction of a tower is made, a copy of an agreement requiring the applicant to remove the tower and associated facilities upon cessation of operations shall be submitted along with other relative documents, such as a signed lease, deed, or land contract. In the event a tower is not removed within the time period stated above (or as extended by the ZBA), the tower and associated facilities shall be removed by the Township and the costs of the removal assessed against the real property.
 - i. *Additional requirements.* In addition to the information required for site plan approval (division 2 of article II of this chapter) and special exception use (sections 46-556 and 46-558(1)) applications for towers shall include the following supplementary information:
 - 1. Tower plans and a report from a qualified licensed professional engineer which provide tower height and design, including cross-sections and elevations;
 - 2. Mounting positions and maximum separation distances between antennas; capacity of tower; steps taken by the applicant to avoid interference;
 - 3. A professional engineer's stamp and registration number certifying compliance with FCC and FAA regulations, building and electrical codes, and other applicable Township ordinances, if any; and
 - 4. Other information necessary to evaluate the request.
- (6) *Shooting ranges.* Shooting ranges, as defined in section 46-3 are subject to the article VI "Conditional and Special Exception Uses"; article VII "Supplemental District Regulations" (to the extent not modified by special exception use requirements); article II, division 2, "Site Plan Review"; article IV, division 7, "Schedule of Regulations"; and the particular standards related to shooting ranges contained in section 46-224(10).
- (7) *Primary use solar energy systems.* The planning commission shall consider the following standards and may issue conditions for approval.
- a. *Land size and area.* The applicant should demonstrate, through the site plan of proposed conditions, that the size, shape, and area of the land are sufficient for the proposed use.
 - b. *Compatibility.* The proposed development should not be detrimental to the surrounding properties and neighborhood.
 - c. *Land/lot coverage.* Solar panels shall not apply to lot coverage calculations. Only the associated buildings and other structures shall be included in the lot coverage calculations.
 - d. *Height restriction.* All buildings and other structures shall be subject to the height restrictions of the district they are located within. Solar panel assemblies shall not exceed 16 feet in height.
 - e. *Safety and security.* Adequate fencing, signage, and safety measures shall guard the facility. Operator shall be required to accommodate access requirements of local fire, police, and ambulance services.

- f. *Code compliance.* The special exception use permit shall be conditioned upon obtaining all necessary permits and approvals from all levels of government and maintaining compliance thereof.
- g. *Setbacks.* All solar panels and associated buildings and structures shall be located at least 125 feet from any adjoining property line and be no less than 75 feet from any road, street, or highway right of way line. Fencing and other security measures shall not apply to the required setback
- h. *Drainage infrastructure.* No part of the planned use, buildings, solar panels, or other structures shall impede, interfere with, or be placed upon any drainage features under the control of the county drain commissioner.
- i. *Landscaping.* A vegetative buffer and screening shall be constructed around the perimeter of the facility. Naturally occurring existing woodland areas are acceptable as screening and buffering. The applicant shall include with the application a maintenance plan for the proposed development including snow removal, mowing, and weed control.
- j. *Environmental impact.* Applicant shall meet all permits and requirements of the Fabius Township Wetlands protection ordinance along with all permits and requirements of the Department of Environmental Quality and the Department of Natural Resources of the State of Michigan.
- k. *Noise.* At no time during the operation of the planned facility shall the noise exceed 50 decibels as measured at the property line.
- l. *Glare.* Solar panels shall be located and placed so that the concentrated solar glare shall not be directed toward or onto nearby properties or roadways.
- m. *Decommissioning.* The applicant shall submit a decommissioning plan to ensure the solar energy system components are properly removed and disposed of after their useful life. The plan shall include provisions for the removal of all structures and foundations, restoration of the soil and vegetation to its original condition, timeframe for completion of the decommissioning, estimated costs, and a surety bond (or other security acceptable to the Planning Commission) to cover the cost of all decommissioning activities. The decommissioning cost estimate shall be prepared by the applicant's engineer. The decommissioning plan and the surety bond amount are subject to approval by the Planning Commission. The plan shall also include a self-conducted decommissioning cost review every five years to be submitted to the Planning Commission for approval, with the surety bond adjusted as needed to cover all costs.
- n. *Annual report.* The operator of the facility shall submit a brief written report to the Planning Commission each year the facility is in operation. The report shall indicate the amount of power generated each month of the reporting period in units of megawatt-hours. The annual report shall also list all complaints received and actions taken to mitigate those complaints. The report shall also list any violations from any governmental agency received during the reporting period and the actions taken to mitigate those violations. Each fifth-year annual report shall include the decommissioning cost review from paragraph "M" above.
- o. *Application fee.* The applicant shall remit the appropriate fee for the special exception use permit pursuant to the fee schedule approved by the Township board. If required by the Planning Commission the applicant shall set up an escrow account with the township to cover all reasonable fees and expenses incurred by the township relating to the application. At its sole discretion, the Planning Commission may require funds be deposited into the escrow account as needed.
- p. *Inspections.* The applicant shall make the facility available to inspections by township officials upon written notice and during normal business hours or at such day and time as mutually agreed upon by both parties. The Planning Commission may, at its discretion, require physical inspection by a township official during the fifth-year report mentioned above.

- q. *Site plan review.* The applicant shall submit an engineered site plan(s) that reflect all existing conditions and all proposed conditions. The site plan(s) shall be prepared at the applicants cost by a registered engineer and requires approval by the Planning Commission.
- r. *Deviations.* Any deviations from the approved plans shall require the submittal of a revised site plan(s) for approval by the Planning Commission.

(Zoning Ord. 1977, art. IX, § 901(4); Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998; Ord. No. 97, 4-29-2004; Ord. No. 137, § 3, 2-8-2012; Ord. No. 163, § XVII, 1-8-2020)

Sec. 46-559. - Area and bulk regulations.

In I-1 districts, no building or structure, nor any enlargement thereof, shall be erected except in conformance with the following lot area, width, frontage, setbacks, height, building coverage, and other requirements:

- (1) Minimum lot size: Determined by lot width, set backs and building size.
 - (2) Minimum lot width: 66 feet.
 - (3) Minimum road frontage: 66 feet.
 - (4) Minimum setbacks.
 - a. Front: 40 feet, plus one additional foot for each foot that building height exceeds 40 feet. See note below.
 - b. Side: 20 feet, plus one additional foot for each foot that building height exceeds 40 feet. See note below.
 - c. Rear: 20 feet, plus one additional foot for each foot that building height exceeds 40 feet. See note below.
- Note: Where property line of the lot involved abuts a residential district, no building shall be closer than 60 feet from said property line.
- (5) Maximum height of main structure: 40 feet except when approved by the Planning Commission with increased setbacks as per subsection (4) of this section.

(Zoning Ord. 1977, art. IX, § 901(5); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998)

Secs. 46-560—46-570. - Reserved.

DIVISION 7. - SCHEDULE OF REGULATIONS

Sec. 46-571. - Intent.

This division is intended to provide a summary of, and convenient reference to, the minimum required lot areas, widths, and frontages in the various zoning districts, together with the minimum required front, side and rear setbacks; the maximum permitted building heights; and the maximum percentage of lot area that may be covered by buildings. Authoritative requirements may be found in the area and bulk regulations applicable to each zoning district and should be consulted.

(Zoning Ord. 1977, art. XII, § 1200; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

SC Shopping Center	note ⁹						See section 46-448
I-1 Light Industrial	note ⁷	66 feet	66 feet	40 feet	20 feet	20 feet	

Notes

- ¹ Limits are for residential uses. For agricultural, other uses, see section 46-225.
- ² Limits are for residential uses. For agricultural, other uses, see section 46-270.
- ³ Limits are for residential uses. For special exception uses, see section 46-292.
- ⁴ In the LR district, front yards are on the lake side, rear yards on the road side. See sections 46-349 and 46-350. Setback from the lake is greater of 50 feet or average of three existing houses on each side, total six.
- ⁵ See section 46-377 for lot size of 4,400 sq. ft., lot width, and other requirements.
- ⁶ For three units only, see article IV, division 4 of this chapter for added space requirements, minimum separation of buildings and other requirements.
- ⁷ Lot area determined by lot width, building size and setbacks. See section 46-448.
- ⁸ To correspond with surrounding district in which situated and limitations of article IV, division 5, subdivision III of this chapter.
- ⁹ As approved by the Planning Commission during site plan review. See article IV, division 5, subdivision IV of this chapter.

(Zoning Ord. 1977, art. XII, § 1201; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-573—46-581. - Reserved.

ARTICLE V. - OPEN SPACE RESIDENTIAL PROJECTS AND OPEN SPACE PRESERVATION⁵

Footnotes:

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State Law reference— Open space preservation, MCL 125.3506; planned unit development, MCL 125.3503.

Sec. 46-582. - Intent.

This article applies to open space residential projects land open space preservation. The intent of this article is to provide, in accordance with sections 503 and 506 of the Michigan Zoning Enabling Act (MCL 125.3503 and 125.3506), for flexibility in the regulation of land development; to encourage innovation in land use; to provide for a harmonious variety of housing choices with the integration of community and recreational facilities, as appropriate; to promote the conservation of natural features and

wildlife habitat; and to encourage aesthetic and desirable preservation and use of open space consistent with the character of the Township.

(Zoning Ord. 1977, art. VII, § 700; Ord. No. 79, 3-24-2000)

Sec. 46-583. - Scope.

An open space residential project pursuant to section 503 of the Michigan Zoning Enabling Act (MCL 125.3503) is a form of development often referred to as a planned unit development. Such projects shall be recognized as a special exception use and controlled by the guidelines of this article (except section 702) as well as article VI, conditional and special exception uses, and division 2 of article II, site plan review, of this chapter. Such developments may be permitted as a special exception use in the AG, R-1, R-2, R-3 and RM-1 districts. In zones which provide densities of two or fewer dwellings per acre or if the land is served by public sewer, three or fewer dwellings per acre, then open space projects may be developed pursuant to section 506 of the Michigan Zoning Enabling Act (MCL 125.2506) as provided in section 46-584. An open space residential project may be created through a land division, platted subdivision, or condominium subdivision. In addition to this chapter, land divisions, plats, and/or site condominiums are subject to the State Land Division Act, (MCL 560.101 et seq.), the Condominium Act (MCL 559.101 et seq.); the Township land division ordinance; and the Township subdivision control and site condominium ordinance.

(Zoning Ord. 1977, art. VII, § 701; Ord. No. 79, 3-24-2000)

Sec. 46-584. - Development of open space residential projects.

- (a) Open space residential projects developed pursuant to section 506 of the Michigan Zoning Enabling Act (MCL 125.2506) are permitted in residential districts with densities of two or fewer dwellings per acre, or, if served by a public sewer system, three or fewer dwellings per acre.
- (b) Properties zoned according to the preceding densities may be developed at the option of the landowner with the same number of dwelling units on a portion of the land, but not less than 50 percent of the original property shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restricted covenant, or any other legal means that runs with the land. The number of dwelling units permitted shall be determined by dividing the area of the parcel, excluding all wetlands, by the minimum lot size of the zoning district in which the property is situated. The area to be left in an undeveloped state shall include not less than 50 percent of the area used to determine the number of dwellings, plus all wetlands as identified in the Township Wetlands Inventory Atlas.
- (c) Development permitted under this section is not dependent upon the extension of a public sewer or public water supply system. Development is subject to other applicable laws and ordinances, including rules relating to the suitability of groundwater for on-site water supply and suitability of soils for on site sewage disposal.
- (d) Land may be developed according to this option only if the option to develop in this or a similar manner has not been previously exercised with respect to that land.

(Zoning Ord. 1977, art. VII, § 702; Ord. No. 94, 11-28-2002)

Sec. 46-585. - Minimum size and use of open space residential projects.

This article provides for open space residential projects (sometimes known as planned unit developments) developed pursuant to section 506 of the Michigan Zoning Enabling Act (MCL 125.2506) subject to the requirements and standards of these sections and with certain incentive bonuses as explained therein.

- (1) *Minimum size.* The minimum size of an open space residential project shall be ten acres of contiguous land.
- (2) *Uses.* Open space residential projects are restricted to one or more of the following uses regardless of the zoning district in which the development is located as well as those specified in section 46-586:
 - a. One-family, two-family, and multiple-family dwellings, including uses and buildings accessory thereto, including home occupations.
 - b. Nonresidential use of an educational, cultural, recreational character, including uses and buildings accessory thereto, provided such uses are an integral part of a residential development logically oriented to and coordinated with the open space residential project.

(Zoning Ord. 1977, art. VII, § 703; Ord. No. 79, 3-24-2000)

Sec. 46-586. - Density determination.

Permitted project density shall be determined based upon the submittal of a yield plan.

- (1) *Yield plan.* The yield plan shall depict a conventional lot and road layout that conforms to applicable local requirements, including the zoning district in which located. Lots must be sized based on soil suitability to accommodate individual septic systems if municipal sewer is not available. primary conservation areas (see definitions section) shall be depicted on the yield plan and excluded from the layout of conventional lots. Land occupied by permanent easements that restrict construction, such as utility transmission, road access, drainage, shall also be excluded from the buildable area. The maximum number of permitted dwelling units shall be based upon the number of conventional units depicted on the yield plan.
- (2) *Incentive bonuses.* To encourage use of the residential open space project provisions in development, the Planning Commission shall have the option of awarding increases of dwelling unit densities of up to 20 percent when the developer compensates for the increased density by employing exceptional site planning and landscaping designs, and/or preserving substantial areas of natural assets and satisfies to a high degree the review criteria listed in section 46-592.
 - a. *Design.* A density increase bonus of up to ten percent may be awarded when design factors make a substantial contribution to the review criteria and objectives of this article. Factors to be considered include, architectural styles, harmonious use of materials, varied housing types, parking areas broken by landscape features, use of existing physical features, circulation pattern, variation in building set-backs and building groups (clusters), pedestrian-way treatments, landscaping of recreational areas, single-loaded streets, boulevards, roundabouts, village greens.
 - b. *Preserving open space and natural areas.* A density bonus increase of up to ten percent may be awarded when the provision of open space and the preservation of natural areas make a substantial contribution toward meeting the review criteria and objectives of this article. Factors to be considered include reservation of open space, preservation of natural assets such as wooded areas, buffer areas for lakes, streams, wetlands or other water courses, lot layout and street design giving a majority of lots frontage and ingress/egress on single loaded streets.
 - c. *Rounding.* When a bonus percentage increase is awarded, any fraction of a dwelling unit above 25 percent will be rounded to the next higher whole number.

(Zoning Ord. 1977, art. VII, § 704; Ord. No. 79, 3-24-2000)

Sec. 46-587. - Minimum open space requirements.

- (a) *Required open space designation.* Open space shall be comprised of primary and secondary conservation areas. (See section 46-3 for definitions of these terms.) Primary conservation areas are predetermined by the location of unbuildable land such as wetlands. Secondary conservation areas shall be based on natural features and open space or recreation elements of the project site plan. The entire open space area shall be protected from development through a conservation easement held by a unit of government or a recognized land conservancy or trust.
- (1) Deducting the primary conservation areas from the gross parcel area yields the adjusted parcel area. A minimum of 50 percent of the adjusted parcel area shall be designated as secondary conservation area, as defined in section 46-3, definitions, and explained below.
 - (2) Secondary conservation areas shall provide an upland buffer of natural native species of at least 100 feet adjacent to wetlands and surface waters, including ponds and natural drainageways.
 - (3) Open space shall be directly accessible to the largest practical number of lots within the development.
 - (4) Where open space is held in noncontiguous parcels, no open space shall consist of less than two acres or have a length to width ratio of greater than 4:1. Exceptions to this requirement shall include areas specifically designated as trail links, wetland and water body buffers, active recreational facilities or formal community spaces, such as village greens
 - (5) Open space may be used for active recreation purposes, such as golf courses, athletic fields, tennis courts, fitness courses, picnic grounds, and similar recreational purposes involving minimal or no structures, but no campgrounds. No more than 75 percent of open space shall be utilized for active recreation purposes.
- (b) *Pedestrian access to open space.* Safe and convenient pedestrian access to the open space from lots not adjoining it shall be provided. (Conserved farmland may be exempted from this requirement to protect crops from damage.) All roadside footpaths should connect with off-road trails, which in turn should link to open space areas on adjoining parcels.
- (c) *Other permitted uses.* Open space may be used for the following other purposes:
- (1) Underground drainage fields for individual or community septic systems. Mound systems and aerated sewage treatment ponds shall occupy no more than ten percent of the open space area.
 - (2) Stormwater management/detention ponds may be included and/or constructed with the open space area.

(Zoning Ord. 1977, art. VII, § 705; Ord. No. 79, 3-24-2000)

Sec. 46-588. - Layout of lots and streets.

- (a) *Minimum lot areas and widths.* The minimum lot areas and widths prescribed in the area and bulk regulations of the various zoning districts only apply when density is being determined in accordance with section 46-586. An open space residential project is not subject to these minimums for actual lot layout. The Planning Commission shall determine the approvable areas and widths of lots as proposed by the developer in a preliminary plan prepared in accordance with section 46-592(2), and the degree to which the review criteria of section 46-592 are met.
- (b) *Lot layout.* Residential lots shall be designed around both the primary and secondary conservation areas and may adjoin those areas. The majority of lots shall abut open space in order to provide views and access.
- (1) Dwelling units should generally not be located closer than 100 feet to a primary conservation area or closer than 50 feet to a secondary conservation area.
 - (2) The designated building footprint may be changed in any direction by no more than 50 feet without requiring any additional review or approval.

- (3) Dwellings located within open fields or pastures shall be sited on the least important agricultural soils or in locations at the far edge of a field, as seen from existing public road rights-of-way.
- (c) *Street layout.* The creation of single-loaded residential access streets is encouraged to maximize the number of homes that may enjoy views of open space. The street layout should facilitate circulation with the development and provide connections to adjacent residential developments. It should minimize the number of cul-de-sacs created to facilitate access within the development and outside the development.
- (1) Wetland crossings and streets traversing slopes of 15 percent grade or greater shall be discouraged.
 - (2) Street layout should minimize the number of cul-de-sacs. Where required, cul-de-sacs shall be designed with a central island planted with native trees and shrubs.
- (d) *Streets.*
- (1) *Interior system.* All open space residential projects shall be serviced by an interior street system. No use within the project shall front or gain direct access from an off-site road network.
 - (2) *Accessibility.* All interior streets shall have widths, gradients, and curvatures sufficient to provide access for emergency vehicles and moving vans.
 - (3) *Paving and width requirements.* Private roads may be utilized for the interior street system of an open space residential project and must be constructed to conform with the requirements of section 46-662, private road construction and maintenance standards and requirements, of this article. Such private roads require a 36-foot wide right-of-way, a paved surface 22 feet wide for a two-way road and 15 feet wide for a single lane road, both having a gravel or grass shoulder two feet wide on each side.
 - (4) *Parking.* All dwelling units shall be provided with parking space adequate for at least four automobiles in addition to any garage space.
 - (5) *Connecting links.* The primary access road(s) of, as well as any other interior roads that serve as connecting links to other public roads, or other major sections of an open space residential project, either currently or in the future, shall be constructed in accordance with the public road specifications of the St. Joseph County Road Commission and be located upon a right-of-way of not less than 66 feet in width.

(Zoning Ord. 1977, art. VII, § 706; Ord. No. 79, 3-24-2000)

Sec. 46-589. - Utilities and drainage.

- (a) *Utilities.* Open space residential projects shall be designed to provide for future public sanitary sewer facilities. All utilities, including electric power, gas, telephone, and cable television shall be placed under ground.
- (b) *Stormwater drainage.* Storm drainage facilities shall be designed and provided separately from any future sanitary sewer. Storm drainage shall be designed to minimize potential soil erosion and adverse impact on existing streams, lakes, and wetlands.

(Zoning Ord. 1977, art. VII, § 707; Ord. No. 79, 3-24-2000)

Sec. 46-590. - Screening; lighting; signage.

- (a) *Screening.*

- (1) Screening may be required along the development perimeters if deemed necessary by the Planning Commission to minimize any adverse effects upon or from adjoining properties that are not part of the open space residential project.
 - (2) Screening shall be accomplished by the siting of land uses, by maximizing the use of existing natural screens, and/or providing new natural screens and/or open space buffers where appropriate.
- (b) *Exterior lighting.* All outdoor lighting shall be in accordance with section 46-650, exterior lighting.
- (c) *Signage.* All exterior signage shall be in accordance with section 46-655, signs, and specifically approved by the Planning Commission as part of detailed site plan review and approval.

(Zoning Ord. 1977, art. VII, § 708; Ord. No. 79, 3-24-2000)

Sec. 46-591. - Plan review requirements.

In addition to a final site plan as required by division 2 of article II of this chapter, the following plans shall be prepared and submitted to the Planning Commission for review:

- (1) Site analysis plan, depicting the following information as a minimum:
 - a. Topography based on U.S. Geological Service data (ten feet or five-meter contour intervals).
 - b. Location of wetlands, inundated lakes (lakes, ponds, natural drainageways) 100-year floodplains, and steep slopes in excess of 18 percent grade.
 - c. Locations of rights-of-way and permanent easements (utilities, access, drainage).
 - d. Soil boundaries and descriptions of types of soils based on soil conservation service maps.
 - e. Location of woodlands, tree lines, open fields, meadows, and scenic views from roadways.
- (2) Open space residential plan. A preliminary plan shall be prepared using the four-step design process below:
 - a. Designate open space by outlining the primary and secondary conservation areas.
 - b. Layout dwelling unit sites: Designate tentative location of potential dwelling unit sites.
 - c. Layout streets: Align proposed streets to provide vehicular access to each dwelling unit site in a manner that minimizes impacts on primary and secondary conservation areas.
 - d. Layout lot lines: Divide the dwelling unit sites into lots.

(Zoning Ord. 1977, art. VII, § 709; Ord. No. 79, 3-24-2000)

Sec. 46-592. - Review criteria.

An open space residential project is subject to the following review criteria by the Planning Commission to determine if the proposed development:

- (1) Is consistent with the residential development and environmental conservation goals, objectives, and policies of the Township master land use plan.
- (2) Protects all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction except as approved for essential services or recreation amenities.
- (3) Preserves and maintains mature woodlands, fields, pastures, meadows, orchards and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.
- (4) Is designed around existing hedgerows and tree lines between fields or meadows and minimizes impacts on woodlands of five acres or more.

- (5) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public roads rights-of-way.
- (6) Avoids, where appropriate, new construction on prominent hilltops or ridges by taking advantage of lower topographic features.
- (7) Protects wildlife habitat area of species listed as endangered, threatened, or of special concern by the federal or state government.
- (8) Is designed around sites of historic, archaeological, or cultural value and their environs.
- (9) Protects the rural roadside character by establishing buffer zones along scenic corridors and improves the public safety and vehicular carrying capacity by avoiding development that fronts directly on existing streets and roadways.
- (10) Provides for landscaping of common areas, cul-de-sac islands, and both sides of new roads with native species of shade trees and flowering shrubs with high wildlife conservation value.
- (11) Provides active recreation areas in suitable locations that offer convenient access by residents and adequate screening from nearby dwelling units.
- (12) Includes a pedestrian circulation system designed to ensure that pedestrians can walk safely and easily throughout the site.
- (13) Provides that individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.
- (14) Provides open space that is reasonably contiguous and configured in accordance with guidelines of the National Land Trust design handbook.

(Zoning Ord. 1977, art. VII, § 710; Ord. No. 79, 3-24-2000)

Sec. 46-593. - Application, review, and approval processing procedures.

- (a) Procedures for processing the application, review and approval of an open space residential project are generally the same as for a site plan review as outlined in section 46-71. Because of the nature of such projects, it is expected that several preliminary conferences between the developer and the Planning Commission will be required.
- (b) When an open space residential project is being developed as a subdivision or a site condominium, processing will also be in accordance with the provisions of article II of chapter 34, the Township subdivision control and site condominium ordinance.

(Zoning Ord. 1977, art. VII, § 711; Ord. No. 79, 3-24-2000)

Secs. 46-594—46-619. - Reserved.

ARTICLE VI. - CONDITIONAL AND SPECIAL EXCEPTION USES⁶

Footnotes:

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State Law reference— Special land uses, MCL 125.3502.

Sec. 46-620. - Purposes and standards.

- (a) To make this article a flexible zoning control and still afford protection of property values and provide for orderly and compatible development within the Township, the Planning Commission is authorized to approve the establishment of certain uses designated as conditional or special exception uses within the various zoning classifications set forth in this article, including section 46-191, uses not otherwise included within a specific use district.
- (b) Such uses have been identified because of their special characteristics which might cause them to be incompatible with or detrimental to the other uses permitted in a particular zoning district, unless proper controls and limitations are imposed.
- (c) Accordingly, conditional or special exception uses are not permitted in a particular zoning district in which they are listed, or to which they may be assigned under section 46-191, unless and until the Planning Commission, in its absolute discretion, is satisfied that such uses, under the conditions, controls, limitations, circumstances, and safeguards imposed by the Commission, meet the following criteria:
 - (1) That such uses are compatible with the other uses expressly permitted within the district, the natural environment, and the capacities of public services and facilities affected by the land use;
 - (2) That such uses would not, in any manner, be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood;
 - (3) That such uses would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; would promote the conservation of natural resources and energy; and would promote the use of land in a socially and economically desirable manner; and,
 - (4) That the conditions, standards, and limitations imposed by the Planning Commission in permitting such conditional or special exception use can and will, in the judgment of the Commission, be met at all times by the applicant.
- (d) The burden of proof of facts which might lead to the granting of a conditional or special exception use permit under the foregoing requirements and standards shall be upon the applicant.

(Zoning Ord. 1977, art. XI, § 1100; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-30-1979; Ord. No. 65, 9-30-1997)

Sec. 46-621. - Permit procedures.

- (a) All applications for conditional or special exception use permits shall be filed with the Township Zoning Administrator utilizing the application form available for this purpose, and shall include all pertinent plans, specifications, and other data upon which the applicant intends to rely for such use permit.
- (b) The Planning Commission, upon receipt of an application in proper form shall schedule and hold a public hearing upon the request in accordance with notification and other procedures as required by the Michigan Zoning Enabling Act (MCL 125.3101 et seq.). All notices shall describe the nature of the conditional or special exception use requested, indicate the property which is the subject of such request, state when and where such request will be considered, and indicate when and where written communications will be received concerning the request.
- (c) Following such hearing, the Planning Commission shall either grant or deny a permit for such use and shall state its reasons for its decision in the matter. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by the Commission in its decision and shall be filed with the zoning enforcement officer of the Township. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare and the social and economic well being of the owners and occupants of the land in question, of the area adjacent thereto, and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of this chapter; designed to

ensure compatibility with adjacent uses of land and the natural environment; and designed to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

- (d) The Planning Commission shall have the right to limit the duration of such uses where the same are of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such requirements may be terminated by action of the Planning Commission after a hearing upon application of any aggrieved party.
- (e) The plot plan and specifications and all conditions, limitations and requirements imposed by the Planning Commission shall be recorded with the Township and shall be incorporated as part of the conditional or special exceptional use permit. Violations of any of these at any time shall cause revocation of said permit and said use shall cease to be a lawful use.
- (f) Any property which is the subject of a conditional or special exception use permit which has not been used for a period of six months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission) for the purposes for which such conditional or special exception use was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning district within which the property is located and the permit for such conditional or special exception use shall thereupon terminate.
- (g) To ensure compliance with the this chapter and any conditions, limitations, or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the Planning Commission may require a cash deposit, certified check, or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such conditions, limitations, or requirements and conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- (h) No appeal regarding conditional or special exception use permits may be taken from any decision of the Planning Commission to the Zoning Board of Appeals and the remedy of any aggrieved party shall be in circuit court.

(Zoning Ord. 1977, art. XI, § 1101; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-30-1979; Ord. No. 65, 9-30-1997; Ord. No. 119, 9-30-2006)

Secs. 46-622—46-645. - Reserved.

ARTICLE VII. - SUPPLEMENTAL DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 46-646. - Intent.

It is the intent of this article to assemble for convenient reference to the zoning provisions that apply generally throughout the Township or are operative in several zoning districts as indicated.

(Zoning Ord. 1977, art. XIV, § 1400; Ord. No. 65, 9-30-1997)

Sec. 46-647. - Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

(Zoning Ord. 1977, art. XIV, § 1402; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-648. - Splitting or dividing of existing lots.

No lot existing on the effective date of this section shall be further split or subdivided where the act of splitting or subdividing of the same would violate any state statute or regulation, including those pertaining to the subdivision of land, or of any applicable Township ordinance. Additionally, no such lot shall be split or subdivided where such act will result in the creation of a lot which does not meet the minimum size, area, or other applicable requirements of the zoning chapter. After the construction, erection or placement of any use permitted by the terms of this article upon a lot and at all times thereafter, such lot shall not be split or subdivided in any manner which would result in the creation of a lot which does not meet the applicable portions of this article, including all applicable setback provisions. Nothing contained in this section, however, shall prevent the splitting or subdividing of existing lots, including nonconforming lots of record, where the act of such splitting or subdividing results in the creation of larger adjacent or contiguous lots providing that the act of splitting or subdividing does not violate any state statutes and regulations or any Township ordinance pertaining to the subdivision of land.

(Zoning Ord. 1977, art. XIV, § 1403; Ord. No. 15, 12-13-1977; Ord. No. 26, 5-6-1983; Ord. No. 65, 9-30-1997)

Sec. 46-649. - Frontage on a street.

- (a) No zoning lot shall be used for any purpose permitted by this chapter unless said lot abuts a street as defined in section 46-3 or a special exception use permit has been granted by the Planning Commission for an easement providing access from a street.
- (b) In granting a special exception use permit, the Planning Commission shall consider the following:
 - (1) That a written easement agreement running with the land has been or will be duly recorded with the St. Joseph County Registrar of Deeds; and such agreement shall contain an easement for public utilities and provisions for maintenance and snow removal, to include methods for apportioning costs, consent for the Township to assess owners in a proportionate manner if repairs or maintenance are not accomplished, and non-interference provisions such that owners of properties using the driveway shall not prohibit, restrict, or limit in any manner the normal ingress and egress and use by any other owners, their family, guests, or tradesmen needing legitimate use of the driveway.
 - (2) That a site plan has been submitted and approved showing that the easement providing access will contain a driveway of well graded gravel or crushed stone at least six inches deep, at least ten feet in width, cleared to a width of at least 12 feet, that in the judgment of the Planning Commission has grades, curves, length, and location providing adequate access for ambulance, fire, police, and other emergency vehicles, and moving vans.
 - (3) That such driveway will not exceed a length of 1,350 feet, measured along the centerline from the street sideline to each dwelling served.
 - (4) That any such driveway serving two or more dwellings shall have a passing turnout six additional feet in width for a total width of 16 feet and 25 feet long, at the driveway connection to the street and may be required to have additional turnouts as determined by the Planning Commission based on such factors as slopes and terrain, sight distances, and other safety considerations.
 - (5) That such approved easements and driveways may be shared by no more than five dwellings.

(Zoning Ord. 1977, art. XIV, § 1404; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998)

Sec. 46-650. - Exterior lighting.

- (a) All outdoor lighting in all districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to direct light away from all adjacent residential districts or nearby residences.
- (b) All outdoor lighting in all districts shall be directed toward and confined to the ground areas of lawns or parking lots.
- (c) All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed, directed, and shielded so as not to interfere with the vision of drivers on adjacent highways or persons on adjacent properties.
- (d) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of drivers on adjacent highways or persons on adjacent properties.
- (e) All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

(Zoning Ord. 1977, art. XIV, § 1406; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-651. - Corner clearance.

No fence, wall shrubbery, sign, or other obstruction to vision above a height of two feet from the established street grade shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from the point of intersection.

(Zoning Ord. 1977, art. XIV, § 1407; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-652. - Residential entryway.

In all residential districts, so-called entranceway structures including, but not limited to walls, columns and gates marking entrances to single-family subdivisions or multiple-family housing projects may be permitted and may be located in a required yard, except as provided in section 46-651, corner clearance, above, provided that such entryway structures shall comply with all codes of the Township and shall be approved by the building official and a permit for same issued.

(Zoning Ord. 1977, art. XIV, § 1408; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-653. - Accessory buildings.

Accessory buildings, except as otherwise permitted in this article, shall be subject to the following regulations; accessory structures in the front yards of waterfront lots are governed by subdivision V of division 3 of article IV of this chapter, LR Lake Residential Districts and section 46-660:

- (1) In residential districts garages and similar structures attached to a main building and used for such purposes as storage of vehicles, home workshops, and household storage, but not as a living area, are not considered accessory buildings for the purpose of this article; however, the floor area for such accessory uses shall not exceed 750 square feet and the height of such structures shall not exceed that of the main building. The floor area of such accessory uses shall

be included as part of the main building floor area for purposes of determining the maximum permitted ground floor area of a detached accessory building in subsections (3) and (4) of this section. Such attached structures are subject to the same height and other regulations applicable to main buildings.

- (2) Unless a special exception use permit has been granted, unattached accessory buildings, and other accessory structures, on any lot of five acres or less in residential districts, or on any lot of five acres or less having residential uses in agricultural districts, shall not be erected in any required yard, except a rear yard, or side yard. No detached accessory building in a residential district shall be built on a parcel unless there is a residential structure on the lot. However, the Zoning Administrator may grant permission to construct an accessory building not to exceed the ground floor area of a residence provided the vacant parcel is adjacent to or directly across the street from a parcel with a residence owned by the applicant, if one of the following has taken place:
 - a. The properties will be combined together by the Township Assessor; or
 - b. The property owner must prepare a recordable document, approved by the Township Attorney, to be filed with the County Register of Deeds office that provides that the residential parcel and the vacant parcel will be sold together unless or until the second parcel has a residential structure or a building permit is in effect for a residential structure and construction is in process.
- (3) No detached accessory building in any residential district on a lot or parcel of two acres or less shall exceed the ground floor area of the main building, or 15 feet in height, or have side walls of more than nine feet in height.
- (4) No detached accessory building in an R-2, R-3, LR, MH, or RM-1 residential district on a lot or parcel of more than two acres shall exceed the ground floor area of the main building, nor 18 feet in height, nor have sidewalls exceeding 12 feet.
- (5) In residential districts, the number of detached accessory buildings is limited as follows:
 - a. On lots or parcels up to two acres: one.
 - b. On lots or parcels of two acres or more: one, with additional accessory buildings which may be approved by the Planning Commission as a special exception use. The Planning Commission shall consider the following standards:
 1. The size, character and nature of the proposed additional accessory building and its proposed uses;
 2. The proximity of the proposed building to adjoining properties with residential structures;
 3. The degree to which the proposed building and use harmonize, blend with, and enhance the surrounding neighborhood; and
 4. The effect of the proposed building and use on adjoining properties and the neighborhood.
- (6) Portable storage sheds and similar structures not affixed to permanent foundations and not exceeding 80 square feet are not considered accessory buildings, but must be sited in conformance with all setbacks. Only one such storage shed is permitted for a dwelling, regardless of the number of lots or parcels on which the dwelling is situated, but such sheds may be in addition to the number of accessory buildings permitted by subsection (5) of this section. Such structures must have a minimum width of six feet. Such structures planned to be sited in the front yards of waterfront properties require special exception use permits in accordance with section 46-348 or section 46-660(b).
- (7) No detached accessory building shall be located closer than ten feet to any main building nor shall it be located closer than ten feet to any side or rear lot line. In those instances where the rear lot line is coterminous with any alley right-of-way, the accessory building shall not be closer

than one foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.

- (8) When an accessory building is 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 building shall not project beyond the front yard setback required on the lot in rear of such corner lot.
- (9) All trailer coaches, motor homes, recreational vehicles or camping trailers parked or stored other than in established mobile home parks or licensed campgrounds shall not be occupied for more than 14 days per year. Tent camping on any lot with or without a permanent dwelling situated thereon shall not exceed 14 days per calendar year, except in licensed campgrounds or licensed children's camps.
- (10) Where a trailer coach or mobile home is intended to be occupied as a temporary residence while construction of a permanent residential building is in process, or where an existing residence has been damaged or destroyed by fire, windstorm, or other such disaster, the Zoning Administrator may approve issuance of a temporary permit for a period not to exceed one year, provided valid permits from the Board of Health for sewage or septic disposal for such use are presented by the applicant. Said permit may be renewed for a maximum of one additional year only if a building permit for the permanent residence has been obtained and actual building construction is being diligently carried on. Such mobile home or trailer coach is exempt from the minimum living area requirements but must be sited in accordance with required setbacks unless a variance has been granted by the Zoning Board of Appeals.
- (11) The use of semi-trailers, former house trailers, or previously used manufactured homes as temporary storage units is permitted only in B Business Districts and I-1 Light Industrial Districts for periods not exceeding 60 days, unless otherwise approved by the Zoning Board of Appeals. Trailers and semi-trailers may be used as temporary offices and/or tool storage facilities on construction or building sites in any district only as long as the building permit for the project is valid.

(Zoning Ord. 1977, art. XIV, § 1410; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 73, § 1, 8-25-1999; Ord. No. 79, 3-24-2000; Ord. No. 88, 3-29-2001; Ord. No. 95, 5-1-2003; Ord. No. 97, 4-29-2004; Ord. No. 104, 3-25-2005; Ord. No. 110, 8-2-2005; Ord. No. 136, § I, 2-8-2012; Ord. No. 136, § 1, 2-8-2012; Ord. No. 154, § V(A, B), 1-9-2019; Ord. No. 164, § II(J), 2-12-2020)

Sec. 46-654. - Plant materials.

- (a) Whenever in this article a greenbelt or planting is required, it shall be planted within six months from the date of issuance of a conditional or special exception use permit or, in the case of a commercial or residential structure, issuance of a certificate of occupancy, and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties or adjacent public streets or rights-of-way. Suitable plant materials equivalent to the plant material listed in subsection (c) of this section, with the required spacing indicated in subsection (b) of this section, shall be used.
- (b) Plant material spacing.
 - (1) Plant materials shall not be placed closer than four feet from the fence line or property line.
 - (2) Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
 - (3) Evergreen trees shall be planted not more than 30 feet on centers, and shall be not less than five feet in height when planted.
 - (4) Narrow evergreens shall be planted not more than six feet on centers, and shall be not less than three feet in height when planted.

- (5) Tree-like shrubs shall be planted not more than ten feet on centers, and shall be not less than four feet in height when planted.
- (6) Large deciduous shrubs shall be planted not more than four feet on centers, and shall be no less than six feet in height when planted.
- (7) Large deciduous trees shall be planted not more than 30 feet on centers, and shall be not less than eight feet in height when planted.

(c) Suggested plant materials.

Evergreen Trees (Min. 5 ft. in height)	Narrow Evergreens (Min. 3 ft. in height)
Fir	Blue Columnar Chinese Cedar
Douglas Fir	Columnar Hinoki Cypress
Hemlock	Columnar Giant Arbor-Vitae
Juniper	Douglas Arbor-Vitae
Pine	Irish Yew
Spruce	Pyramidal Red Cedar
	Pyramidal White Pine
	Swiss Stone Pine

Large Deciduous Trees (Min. height 8 ft.)	Large Deciduous Shrubs (Min. height 6 ft.)
Beech	Buckthorn
Birch	Cottoneaster
Gingko	Euonymus
Hackberry	Forsythia

Hard Maple	Hazelnut
Honey Locust	Honeysuckle
Hop Hornbeam	Lilac
Linden	Mock Orange
Oak	Ninebark
Planetree (Sycamore)	Privet
Sweet Gum	Sumac

Tree-like Shrubs (Minimum height four feet)		
Dogwood	Hornbeam	Redbud
Flowering Crab	Magnolia	Rose of Sharon
Hawthorne	Mountain Ash	Russian Olive

(Zoning Ord. 1977, art. XIV, § 1414; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-655. - Signs.

- (a) *Intent and purpose:* This section is intended to regulate the use, construction, reconstruction, placement and design of signs in order to protect the Township's public health, safety and welfare. This section is intended to establish reasonable regulations regarding the size, placement and construction of signs, while also regulating the time, place and manner of their display.
- (1) The regulations contained in this section acknowledge that an individual property owner's or user's right to convey a message for business or other purposes must be balanced against the public's health, safety and welfare, and its right to be free of signs that are unreasonable distractions to drivers and pedestrians and which unnecessarily compete to attract attention.
 - (2) The purposes of this section are to:

- i. Encourage the effective use of signs as a means of communication;
 - ii. Improve and maintain pedestrian and traffic safety;
 - iii. Encourage economic development;
 - iv. Prevention of blight;
 - v. Minimize the possible adverse effect of signs on nearby public and private property;
 - vi. Preservation and/or protection of scenic areas, viewshed and the dark night sky;
 - vii. Enable the fair and consistent enforcement of sign regulations;
- (3) It is further recognized that Fabius Township desires to regulate the size, number, location and placement of signs in order to:
- i. Prevent and/or limit traffic and pedestrian accidents and injuries;
 - ii. Prevent and/or limit property damage occurring from obstructed visions caused by signs;
 - iii. Prevent and/or limit distraction and confusion for the public and/or emergency service personnel resulting from signs;
 - iv. Minimize the risk of injury or damage from dilapidated, obsolete and/or abandoned signs;
 - v. Protect the public health, safety and welfare.
- (4) It is further recognized that in some special instances, temporary signs may be appropriate for a limited time and with reasonable conditions.
- (5) It is further recognized that this section does not regulate the following:
- i. The content of signs;
 - ii. Scoreboards at public schools or public athletic fields.
 - iii. Gravestones or cemetery markers;
 - iv. Religious symbols;
 - v. Noncommercial holiday displays.
- (b) *General requirements.*
- (1) It shall be unlawful for any person to erect, place or maintain a sign in the Township except in accordance with the provisions of this section. Any sign which is not expressly allowed under the provisions of this chapter is prohibited.
- (2) *Signs permitted in all zoning districts:* The following signs are permitted in all zoning districts, except as otherwise provided, and do not required a zoning permit, but must conform to all other requirements of this section.
- i. One property address sign per lot or parcel that identifies the address number and street. Such signs shall not exceed 16 square feet in commercial and industrial zones or five square feet in agricultural and residential zones.
 - ii. Nameplate signs, not to exceed two square feet. A limit of one nameplate sign per each side of a building facing a street or parking area shall be permitted per business.
 - iii. Memorial signs or tablets, names of buildings, and date of erection, monumental citations, commemorative tablets when carved into stone, concrete or other similar material or made of bronze, aluminum or other non-combustible material and made an integral part of the structure.
 - iv. Signs on a bus, truck, trailer or other vehicle while operated and used for transport in the normal course of business.

- v. Regulatory, directional and street signs erected by a public agency in compliance with the Michigan Manual of Uniform Traffic Control Devices, the Uniform Federal Accessibility Standards and/or the Michigan Barrier Free Manual.
- vi. Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
- vii. Flags bearing the official insignia of a nation, state, municipality, educational institution or military branch and which do not constitute advertising.
- viii. Gateway signs not exceeding eight feet in height and/or 32 square feet in total sign area, as approved by the Township.
- ix. Plaques and signs designating a building or a site as historic in nature and installed by a federal, state or local historical agency or group.
- x. Permanent signs on vending machines, ice containers or other similar devices, indicating only the contents, provided that the sign area shall not exceed six square feet per device and are not legible from the adjacent street.
- xi. Political signs shall be removed within ten days after the election to which they apply. Political signs shall not be illuminated and may be placed only on private property and only with the permission of the property owner. Political signs shall not exceed 32 square feet per sign or an aggregate of 64 square feet of display area per lot or parcel.
- xii. Any sign that is located completely within an enclosed building and is not visible from outside the building.
- xiii. Incidental signs provided such signs do not occupy more than eight square feet of advertising display area. Incidental signs are not permitted in residential or agricultural zoning districts.
- xiv. Product dispenser and point of sale displays provided they are not readable at a distance greater than three feet off of the lot or parcel. Product dispensers and point of sale displays are not permitted in residential or agricultural zoning districts.
- xv. On-premise directional signs up to four square feet in sign area. Each lot, parcel or development shall not have more than two directional signs per access point.
- xvi. Any sign providing a public notice or emergency information that is temporary in nature.
- xvii. Wayfinding signage installed by a government, government agency or quasi-government agency, including, but not limited to, DDAs, Corridor Improvement Authorities, etc.
- xviii. One construction sign for each street frontage of a construction project except developments involving one-family and two-family dwellings. The construction sign cannot exceed 64 square feet in area. Such signs may be erected 30 days before the beginning of construction and must be removed within 30 days following construction.
- xix. One non-illuminated real estate sign per lot not to exceed 16 square feet in area involving the sale or rental of the lot. Any such sign shall be located on the lot being advertised for sale or rent.
- xx. Any noncommercial sign that is not legible from a distance of more than three feet beyond the lot or parcel on which sign is located.
- xxi. Any portable freestanding sign which is not legible from a public street. Examples of such locations include, but are not limited to, inside a mobile home park or apartment complex, which signs are used for internal purposes only.
- xxii. Sidewalk signs located within ten feet of the entrance to a business that the sign is advertising, so long as adequate clearance is maintained on the sidewalk for pedestrians and other traffic.

- xxiii. Any subdivision or condominium advertising sign, provided that they are temporary, not illuminated and do not exceed 64 square feet in area. There may be no more than two such signs per subdivision or condominium development and the signs must be removed when 75 percent of the lots/units have buildings on them, or have been sold or leased to purchasers/lessees other than the developer.
 - xxiv. Banners, seasonal and decorative in nature and theme that do not advertise a product, service or business and which pertain to holidays and/or community or governmental events. Banners must be attached to light or utility poles and can be a maximum size of 32 square feet.
 - xxv. Banners, commercial in nature and theme, that are no larger than 32 square feet in area. Such banners may only be displayed for 42 days out of any calendar year per business, entity or enterprise. No more than one banner is allowed per lot or parcel and such banners are only allowed in the B, RB, SSB and I-1 zoning districts.
- 3) *Prohibited signs:* The following signs are prohibited in all zoning districts, unless expressly permitted in this section.
- i. Any sign not expressly allowed by this section.
 - ii. Abandoned signs, which shall be removed within 30 days of the cessation of the business, use or activity.
 - iii. Gas or air filled balloons intended to draw attention to a business or other commercial activity.
 - iv. A sign that contains an intermittent or sequential flashing light source used to attract attention to a business or other commercial activity. This does not include electronic changeable copy signs that are otherwise expressly permitted in this section.
 - v. A rotating or moving sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.
 - vi. Vehicle signs not used during the normal course of a lawful business that are parked or located for the primary purpose of displaying the advertising copy.
 - vii. Festoons, pennants, nongovernmental flags, banners, inflatable figures, and streamers, except as expressly permitted in this section.
 - viii. Snipe signs.
 - ix. Signs imitating or resembling official traffic or governmental signs.
 - x. Portable freestanding signs, except where expressly permitted in this section.
 - xi. Any sign that obstructs free access to or egress from a required door, window, fire escape or other required exit from a building or structure.
 - xii. Any sign which makes use of the words "Stop", "Look" or "Danger" or any other words, phrase, symbol or characters in such a manner as to interfere with, mislead or confuse drivers.
 - xiii. Roof signs.
 - xiv. Signs on street furniture, such as benches and trash receptacles, not including commemorative plaques or engravings which are not large than one-half square foot.
 - xv. Business logos or other advertisements on directional signs.
 - xvi. Off-premise signs, unless expressly permitted in this section.
 - xvii. Animated signs.
- (4) *Permit.* Unless otherwise provided by this chapter, no sign shall be installed or utilized unless and until the Township has issued a zoning permit for the sign.

- (5) *General setbacks.* Unless a different setback is specified for a particular sign elsewhere in this chapter, all signs must be setback at least 15 feet from a road right-of-way (including any private road easement) and twenty (20) feet from all other property boundaries.
 - (6) *Landscaping.* The base portion of a freestanding sign shall be landscaped with low maintenance plants. Such landscaping may be placed in stone, masonry or treated wood bases or containers to achieve a pleasant aesthetic arrangement. Such landscaping shall be reasonably maintained at all times.
 - (7) *Traffic hazards.* No sign may be constructed, erected, displayed, maintained, reconstructed or located so that it creates a hazard for vehicle or pedestrian traffic. If the St. Joseph County Road Commission, MDOT or the Township determines that any sign is a traffic hazard, the Township shall notify the owner to remove the sign. In determining whether a sign is a traffic hazard, the Township may consider, but is not limited to, the following:
 - i. Height, area, supporting structure and distance from ground level of the sign;
 - ii. Lighting of the sign;
 - iii. Location of the sign in relation to roads;
 - iv. Drives, points of ingress and egress, parking areas, sidewalks, and other vehicular and/or pedestrian access ways;
 - v. Location of the sign in relation to nearby buildings and structures;
 - vi. If the sign, 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 be distracting to motorists.
 - (8) *Maintenance.* All signs shall be properly maintained in good condition and reasonable repair at all times. Exposed surfaces shall be clean and painted, if paint is required. Defective or damaged parts must be replaced in a timely fashion. Any sign that becomes dilapidated or damaged shall either be promptly removed or repaired to a reasonable condition. The Building Inspector has the right to order the repair or removal of any sign that is unsafe as defined by the Michigan Building Code (or its success code), dilapidated, decrepit or damaged. No sign shall be installed, displayed or maintained on a property, structure or fixture of another person or entity without the express permission of the owner of such property, structure or fixture.
- (c) *Measurements and illumination.*
- (1) *Display area.* The display 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 the writing, representation, emblem, logo or other figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, pole or other structure necessary to support the sign, or architectural features.
 - (2) *Faces.* The area of a freestanding or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back to back and are of equal size and are no more than forty-eight inches apart on average, then the area of the two back to back faces shall be counted as one face. If the two back to back faces are of unequal size, the larger of the two faces shall be counted as the one face. As used here, back to back means signs that face in opposite directions and are parallel or form an angle no greater than 30 degrees.
 - (3) *General height.* The height of a sign shall be measured as the vertical distance measured from the highest point of the sign, including any decorative embellishments, to the grade of the adjacent street or the normally undisturbed surface grade beneath the sign, whichever ground elevation is less.

- (4) *Sign characteristics.* Except for billboards (which regulations are contained elsewhere within this chapter), permitted characteristics of signs shall be based on the following table, where N= Not Permitted and P= Permitted.

	ZONING DISTRICTS											
Characteristic	AG	R-1	R-2	R-3	LR	MH	RM-1	B	RB	SSB	SC	I-1
Internal Illumination	P	N	N	N	N	N	P	P	P	P	P	P
External Illumination	P	N	N	N	N	N	P	P	P	P	P	P
Manual Changeable Copy	P	P	P	P	P	P	P	P	P	P	P	P
Electronic Changeable Copy	P	N	N	N	N	N	N	P	P	P	P	P
Neon	N	N	N	N	N	N	N	P	N	P	P	P

(5) *Illumination.*

- i. There shall be no flashing, moving or intermittent illumination of any sign.
- ii. If permitted, signs may be illuminated only by continuous indirect white light. Only the sign face shall be illuminated.
- iii. Any sign lighting must be enclosed and so directed as to prevent the source of light from shining directly or indirectly onto traffic or nearby properties.

- (d) *Portable freestanding signs.* Portable freestanding signs are permitted in any zoning district, subject to the following regulations and requirements:

- (1) Portable freestanding signs shall not be used for more than 42 days out of any calendar year for a specific lot or parcel. For lots or parcels with multi-tenant commercial buildings, each lawful business in the multi-tenant building can utilize any one portable freestanding sign for not more than 42 days out of any calendar year.
- (2) Portable freestanding signs may be displayed, used installed or erected pursuant to a permit issued by the Zoning Administrator. No portable freestanding sign shall be displayed, used, installed or erected prior to the issuance of a permit by the Zoning Administrator. Each permit shall be valid for seven days. There shall be at least 14 consecutive days between the issuing of a permit for a specific lot or parcel or for a specific business in a multi-tenant building. The permit shall identify the period during which the permit is valid. A fee, as established by the Township Board, shall be required before a permit may be issued. The Zoning Administrator shall have discretion to require an applicant to post a guarantee (irrevocable letter of credit or cash deposit) with the Township to ensure compliance with the requirements of the permit and this section. The

Zoning Administrator may attach reasonable conditions to the permit, which conditions shall be based upon the Township's intent to insure public health, safety and welfare with regards to the impacts and effects of any portable freestanding sign.

- (3) Portable freestanding signs shall not be used in parking, driveway or access areas and/or in a manner which obstructs the vision of motorists or pedestrians using the parking aisles, traffic of movement through a parking lot.
 - (4) Portable freestanding signs shall not obstruct any public or private sidewalk.
 - (5) Portable freestanding signs shall not be illuminate in any fashion.
 - (6) Portable freestanding signs shall be anchored in a safe and secure manner. The anchoring of portable freestanding signs by tying or attaching weight objects (such as cinder blocks) is prohibited.
 - (7) No portable freestanding sign shall exceed 32 square feet in area on each sign face. Support framework shall not be included in sign area calculation.
 - (8) No portable freestanding sign copy shall be comprised of more than two colors.
 - (9) Portable freestanding signs shall be located a minimum of 20 feet from the edge of any road or street right-of-way, including a private road right-of-way or easement.
 - (10) No more than one portable freestanding sign shall be allowed on a lot or parcel at one time. For lots or parcels with multi-tenant buildings, no more than one (1) portable freestanding sign shall be allowed at one time for any particular tenant or business and no more than two portable freestanding signs shall be allowed at one time on the lot or parcel involved.
 - (11) There shall be a minimum of 100 feet separation distance between portable freestanding signs.
 - (12) Except during the time period specified in the permit issued by the Zoning Administrator for a portable freestanding sign, no portable freestanding sign shall be stored or kept outdoors on the lot or parcel involved and shall not be visible on any such lot or parcel. This section shall not be applicable to a lawful business that sells or leases portable freestanding signs, so long as those signs are not being used on the lot or parcel of said business for the purpose of off-premise advertising.
 - (13) When in use, every portable freestanding sign shall be kept in good maintenance and reasonable repair.
 - (14) The service, product, sale or event being advertised must be lawful in order for a portable freestanding sign to be used.
- (e) *Signs permitted in the AG zoning district.*
- (1) In addition to the signs permitted elsewhere in this chapter, signs are permitted in the AG zoning district in accordance with the following table (but such a sign is so allowed only where the sale, business or event being advertised is lawful in the applicable zoning district).

Permitted Signs AG district	Development Standards			
	Maximum Size	Number Allowed	Maximum Height	Other Requirements
Farm business sign	32 square feet	1 per lot or parcel	6 feet	
Off premises directional sign	32 square feet	1 per lot or parcel	4 feet	

Ground or monument sign	48 square feet	1 per each street frontage	6 feet	
Wall or building sign	32 square feet	1 per each street frontage	N/A	
Freestanding sign	2% of the front wall of the building or 50 square feet, whichever is greater	1 per lot or parcel	12	
Subdivision or condo development sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Mobile home park identification sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Subdivision or site condo advertising sign	64 square feet	2 per development	8 feet	Removed when 75% of lots/units have been sold or have buildings on them
Real estate sign	6 square feet	1 per lot	3 feet	

(f) *Signs permitted in the R-1, R-2, R-3, LR, MH and RM1 zoning districts.*

- (1) In addition to the signs permitted elsewhere in this chapter, signs are permitted in the R-1, R-2, R-3, LR, MH and RM1 zoning districts in accordance with the following table (but such a sign is so allowed only where the sale, business or event being advertised is lawful in the applicable zoning district).

Permitted Signs R-1, R-2, R-3, LR, MH and RM1	Development Standards			
	Maximum Size	Number Allowed	Maximum Height	Other Requirements
Farm business sign	32 square feet	1 per lot or parcel	6 feet	
Off premises directional sign	32 square feet	1 per lot or parcel	4 feet	
Ground or monument sign	48 square feet	1 per each street frontage	6 feet	

Wall or building sign	32 square feet	1 per each street frontage	N/A	
Subdivision or condo development sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Mobile home park identification sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Home occupation sign	6 square feet	1 per dwelling unit	3 feet	
Subdivision or site condo advertising sign	64 square feet	2 per development	8 feet	Removed when 75% of lots/units have been sold or have buildings on them
Real estate sign	6 square feet	1 per lot	3 feet	

(g) Signs permitted in the B, RB, SSB and I-1 zoning districts

- (1) In addition to the signs permitted elsewhere in this chapter, signs are permitted in the R-1, R-2, R-3, LR, MH and RM1 zoning districts in accordance with the following table (but such a sign is so allowed only where the sale, business or event being advertised is lawful in the applicable zoning district).

Permitted Signs B, RB, SSB and I-1	B/SSB	RB	I-1	
<i>Freestanding Pole or Pylon Sign</i>				
Permitted	Yes	Yes	Yes	Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Height	25 feet	15 feet	25 feet	Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Display Area	64 square feet	32 square feet	64 square feet	Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Number	1 per lot	1 per lot	1 per lot	Not permitted if a freestanding ground sign or monument sign is on the same lot
<i>Freestanding Ground or Monument Sign</i>				

Permitted	Yes			Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Height	8 feet			
Maximum Display Area	64 square feet			
Maximum Number	1 per lot			
<i>Wall or Building Sign</i>				
Permitted	Yes			
Maximum display area	64 square feet	32 square feet	64 square feet	Signs must be located on a wall facing a street or parking area
Maximum Number	1 per business, per each side of a building facing a street or parking area			
<i>Directory Sign</i>				
Permitted	Yes			
Maximum Display Area	20 square feet			

(h) *Billboards.*

- (1) Billboards are only permitted within 100 feet of a state or federal highway and within the I-1 zoning district. The lot on which the billboard is located must abut and have frontage on a state or federal highway right-of-way.
- (2) All billboards shall receive prior approval of the State of Michigan, pursuant to the Highway Advertising Act and other applicable regulations, as may be amended, prior to applying to Fabius Township for approval.
- (3) If a billboard qualifies for zoning approval as stated in subsection (h)(1) above, a zoning permit is required prior to the erection or alteration of the billboard. In addition, a zoning permit is required before any existing billboard is rebuilt, structurally altered, or materially changed (but no zoning permit is required simply to change the copy or depictions on the billboard). The application for the zoning permit must contain the following:
 - i. A colored rendering of the proposed billboard containing the proposed dimensions.
 - ii. A site plan indicating the location of the proposed billboard and the appropriate setback information.
 - iii. Information on how the billboard will be illuminated, if applicable.

- (4) Double-faced billboard structures and V-type billboard structures shall be considered as one billboard, but with multiple faces. No billboard shall contain more than one sign panel facing the same direction of traffic on any highway.
- (5) The area of a sign panel on a billboard shall not exceed 672 square feet.
- (6) The height of a billboard shall not exceed 45 feet. The height of a billboard shall be measured as the vertical distance measured from the highest point of the billboard, including any decorative embellishment, to the grade of the highway or the surface grade beneath the sign, whichever ground elevation is lower.
- (7) No billboard shall be located within 300 feet of an existing dwelling. No digital billboard shall be located within 750 feet of an existing dwelling. For the purposes of this subsection, the distance between a billboard and an existing dwelling shall be measured as a straight line between the billboard and the existing dwelling.
- (8) No billboard shall be located closer than 50 feet to any property line, except for those property lines that abut a state or federal highway, where no billboard shall be located closer than ten feet from the state or federal highway right-of-way, as measured from the closest point or edge of the billboard.
- (9) All billboards must be constructed with a monopole-type support structure.
- (10) Except as otherwise provided in this section, a billboard may be illuminated, provided that 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 oncoming vehicles, or any adjacent premises. No billboard shall have one or more flashing, strobing, intermittent, moving, rotating, or oscillating lights or images.
- (11) The slat, panel, or blade twirl time of a tri-vision billboard shall be two seconds or less and the blade dwell time (i.e., stationary and able to be read) shall be eight seconds or more.
- (12) Digital billboards are allowed if the digital or electronic changeable copy portion of the billboard, and the billboard itself, meet all of the following additional standards:
 - i. No digital billboard shall be located within 4,000 feet of another digital billboard. For the purposes of this subsection, the distance between digital billboards shall be measured as the distance between the points at which lines drawn perpendicular to the highway from the location of each billboard intersect with a line along the center of the highway.
 - ii. There shall be no movie or television-style pictures or depictions.
 - iii. No design shall have a white background in order to reduce glare.
 - iv. The rate of change between two static messages shall be one second or less.
 - v. There shall be a minimum of eight seconds between copy changes.
 - vi. The face of the sign shall be dimmed automatically from 30 minutes before sunset to 30 minutes before sunrise down to five percent of its daylight brightness setting.
 - vii. The maximum brightness levels for digital billboards shall not exceed 0.2 foot-candles over ambient light levels measured at a distance of 150 feet from the face of the sign.
 - a. The owner(s) of a digital billboard must reasonably coordinate with relevant public agencies to allow for the display of real-time emergency information such as Amber Alerts or natural disaster directives.
 - b. The digital billboard will not distract, endanger, or disorient motorists.
 - c. The digital billboard will not cause glare onto, or illumination of, any adjoining properties.
- (13) The following modifications to existing billboards shall not occur except in full compliance with this section:

- i. Changing or altering a billboard to provide for electronic changeable copy of a different type or manner of electronic changeable copy.
 - ii. Changing or altering a billboard to become a digital billboard.
- (14) The setback requirements of this section shall apply regardless of jurisdictional or governmental boundaries.

(Zoning Ord. 1977, art. XIV, § 1415; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 110, 8-2-2005; Ord. No. 142, § 2, 9-10-2014)

Sec. 46-656. - Walls and obscuring screens.

- (a) For those use districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to any residential district an obscuring wall or obscuring screen of evergreen trees and shrubs according to the requirements indicated below, except as otherwise provided in subsection (d) of this section:

B Districts.	7-foot-high wall or obscuring screen
Auto wash or drive-in restaurants	7-foot-high wall or obscuring screen
Hospital-ambulance and service delivery areas	7-foot-high wall or obscuring screen
I-1 District loading, unloading, service, storage areas	8-foot-high wall or obscuring screen
Public utility buildings, stations, substations, yards	6-foot chain link fence topped with 3-strand barbed wire arm over-hang with posts no more than 10 feet apart

- (b) All walls herein required shall be constructed of materials approved by the Planning Commission to be durable, weather resistant, rust-proof, and easily maintained.
- (c) Where an obscuring screen of evergreen trees and shrubs is approved as an alternative to a wall, trees must of a minimum height of three feet when planted and be spaced in a double staggered row, if necessary, to provide the required horizontal obscuring within two years and the required minimum height within five years.
- (d) In situations involving vehicular traffic or other safety hazards adjacent to residential districts, the Planning Commission may require a temporary fence until the obscuring screen reaches maturity, or may require a permanent fence in addition to the screen.
- (e) Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this article requires conformance with front yard set back lines in abutting residential districts. Upon site plan review and approval, the Planning Commission may approve an alternate location for the wall or may waive the wall requirement if in a specific case it would not serve the purpose of screening the intended area effectively. Required walls may, upon approval of the Planning Commission, be located on the opposite side of any alley right-of-way from a nonresidential zone that

abuts a residential zone when mutually agreeable to all affected property owners. In considering whether to waive the wall requirement, the Planning Commission may also consider whether the abutting residential district is considered to be an area in transition and may become nonresidential in the future.

- (f) Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this article and except such openings as may be approved by the Zoning Board of Appeals.
- (g) An obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than 500 feet from such abutting residential district.

(Zoning Ord. 1977, art. XIV, § 1416; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-657. - Fences (residential).

Fences are permitted, or required, subject to the following:

- (1) Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house, or the minimum required front yard, whichever is greater, unless the fence can be seen through. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house, or the minimum required front yard, whichever is greater, unless the fence can be seen through. In the LR lake residential district, only split rail/post and rail fences, of up to three feet in height are permitted from the front of the house (lakeside) to the established legal lake level.
- (2) Fences in all districts shall be constructed such that supporting posts and framework are on the interior or fence owner's side of the fence and that the sheathing or facing of the exterior as seen from adjoining properties or the street is the more presentable and attractive side of the fence. Also, consideration should be given to whether a proposed fence enhances the neighborhood or blocks scenic views for nearby property owners.
- (3) Fences on lots of record in residential districts shall not contain barbed wire, electric current, or charge of electricity.
- (4) Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated with an area developed with recorded lots, shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total surface area.
- (5) Line fences marking property lines, may be permitted in all yards in areas designated as farms or agricultural areas.

(Zoning Ord. 1977, art. XIV, § 1417; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 125, § VII, 12-27-2007)

Sec. 46-658. - Swimming pools.

- (a) Private indoor and outdoor swimming pools are permitted as an accessory use in all use districts. They shall be constructed, enclosed, operated, and maintained in accordance with the applicable provisions of the building code currently in effect in the Township and the following additional requirements:

- (1) Structures housing indoor pools are subject to all provisions of this article applicable to any other structure.
 - (2) Outdoor pools shall be set back from front lot lines by a minimum of 25 feet and from side lot lines and rear lot lines or alley right-of-way lines by a minimum of ten feet. Distances are to be measured to the outside of the pool wall.
 - (3) No outdoor swimming pool shall be located in an easement.
 - (4) Above ground outdoor pools and fences surrounding outdoor pools, whether in-ground or above ground, shall not obstruct views by abutting property owners of nearby lakes, ponds, or other natural features.
- (b) Private ponds shall be permitted without fencing being required provided the area surrounding the pond does not exceed a horizontal to vertical slope ratio of 2:1.

(Zoning Ord. 1977, art. XIV, § 1418; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-659. - Anti-funneling regulations.

- (a) *Intent.* It is the intent of this section to promote the integrity of the lakes within the Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes by discouraging excessive use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing manmade adjustments to the established shorelines. Nothing in this article shall be construed to limit access to lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county, or local government.
- (b) *Regulations.* In any zoning district where a parcel of land is contiguous to a lake or pond, either natural or manmade, such parcel of land may be used as access property or as common open space held in common by a subdivision, association, or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed restrictions of record; or owned by two or more dwelling units located away from the waterfront only if the following conditions are met:
- (1) That said parcel of land shall contain at least 70 linear feet of water frontage for each dwelling unit or each single-family unit to which such privileges are extended or dedicated, with a minimum lot depth of 100 feet. Frontage shall be measured by a straight line which intersects each side lot line at the water's edge.
 - (2) That in no event shall water frontage of such parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS map, or have otherwise been determined to be wetland by the Michigan DNR; and that in no event shall a swamp, marsh, or bog be altered by the addition of earth or fill material or by the drainage of water for the purpose of increasing the water frontage required by this regulation.
 - (3) That in no event shall such parcel of land abut a manmade canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
 - (4) That access property, as provided for in, and meeting the conditions of, this article, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure, or for any commercial or business use.

(Zoning Ord. 1977, art. XIV, § 1419; Ord. No. 52, 11-10-1993; Ord. No. 65, 9-30-1997; Ord. No. 144, § VIII, 8-12-2015)

Sec. 46-660. - Setbacks from lakes, ponds, streams and rivers.

- (a) Any building or structure, abutting a lake, stream, pond or river shall be setback at least 50 feet from the "ordinary high water mark" or "established legal lake level" set out in subsection (i) below except:
 - (1) Those buildings or structures in existence at the time of passage of the ordinance from which this Chapter derives.
 - (2) Any principal building abutting a lake, river, stream or pond in any district shall be set back from the ordinary high water mark or established lake level by the lesser of 50 feet or the average of the three nearest existing principal structures on each side (total of six).
 - (3) Docks, together with temporary boat shelters, which are dismantled during the winter months, shall comply with the state regulations for inland lakes, streams and waterways.
- (b) The required setback shall be measured from the "established lake level" unless one does not exist in which case the "ordinary high water mark" shall apply. For any lake, pond, stream, canal or river not listed below, then in the event of a controversy concerning the location of the benchmark from which the required setback shall be measured, the determination of the Zoning Board of Appeals established under this chapter shall be conclusive.
- (c) On the street side of a lot or parcel abutting a lake, river, pond or stream, every principal building or structure shall be set back from the street at least 35 feet.
- (d) Only split rail/post and rail fences of up to three feet in height are permitted between the house and the ordinary high water mark or established lake level. For fencing on parcels abutting a lake, river, stream or pond, see also section 46-657.
- (e) For accessory buildings on lots fronting on a lake, stream, pond or river, the minimum building setback shall be 15 feet from a public or private street or the average setback of the street side accessory buildings on the nearest three adjoining lots in either direction (total of six), if any.
- (f) For accessory buildings on lots fronting on a lake, stream, pond or river, the minimum setback from the side lot line shall be ten feet or the average of the three adjoining accessory buildings, whichever is greater. On lots and parcels that were of record when the zoning ordinance was adopted and that have frontage on a lake, river, pond or stream, where a lot or parcel is 60 feet wide or less (measured at the building setback line), the following standards shall apply:
 - (1) Front "lake side" 50 feet or the average setback distance of the three nearest existing residential structures on each side (total of six), whichever is greater.
 - (2) Side yards of at least ten feet on each side, measured from the building line, shall be required.
 - (3) Rear (road side): 35 feet. A minimum setback of ten feet for accessory buildings only, from the right-of-way or street side property, subject to 46-653(7).
- (g) *Nonconforming riparian parcels.* A lawfully nonconforming structure located on a lake, river, stream or pond which is damaged or destroyed by an act of God outside of the control of the owner or occupant such as tornado, earthquake, or wind storm may be reconstructed on the same footprint and/or size foundation as it previously existed prior to the destruction.
- (h) *Parcels with riparian and street side front yards.* For those parcels located on a river, stream, lake or pond that also contain a road in the front yard (parallel or nearly parallel to the water), the riparian setbacks and limitations in this section shall apply and all buildings or structures shall be set back 35 feet from the road right-of-way.
- (i) *Established lake levels:*

Lake Name	Established Lake Level	Date Established	100-year Flood Plain	Date of DEQ Letter Re: Floodplain

Clear	874.75	10-29-53	876.5	12-4-95
Corey	874.0	8- 5-74	878.5	1-13-00
Long	887.0	5-16-52	892.00	10-14-91
Kaiser	874.5	8-21-53	878.5	1-13-00
Pleasant	851.0	9- 7-67	853.0	5-19-95

(Zoning Ord. 1977, art. XIV, § 1420; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 128, § III, 11-18-2008; Ord. No. 144, § VI, 8-12-2015)

Sec. 46-661. - Depth to width ratio, lots and parcels.

Lots or parcels created either by land division or subdivision shall not exceed a depth to width ratio of 4:1, exclusive of access roads, easements, or non-development sites. The depth of a lot or parcel shall be measured within its proposed boundaries from the abutting road right-of-way to the most remote boundary line point, or from that side of the parcel nearest the road accessed by and approved and recorded easement.

(Zoning Ord. 1977, art. XIV, § 1421; Ord. No. 79, 3-24-2000)

Sec. 46-662. - Private road construction and maintenance standards and requirements.

- (a) *Conditions.* Private roads may be utilized within residential open space projects and elsewhere in the Township if approved by the Planning Commission provided they are constructed and maintained in accordance with the standards and requirements of this section.
- (b) *Design and construction.* Private roads may serve not more than 12 parcels, lots, or buildings sites and shall be designed and/or constructed:
 - (1) With a deeded and recorded easement or right-of-way width of at least 33 feet for its entire length, to include provisions for public utilities, and for repair and maintenance as prescribed in subsection (g) of this section.
 - (2) Parallel to and as close as practical to the centerline of the easement or right-of-way.
 - (3) To accommodate vehicle speeds of at least 20 miles per hour.
 - (4) To control stormwater run-off and to permit effective storm water drainage by means of sloping, ditches or other acceptable methods. Side ditch cross sections shall have slopes not exceeding one foot vertically in three feet horizontally on the side adjoining the road and not more than one foot vertically in two feet horizontally on the side away from the road. Ditches shall have a minimum lateral grade slope of 0.5 percent and flow into a cross culvert or drainage course. Culverts shall be placed at all natural drainage courses or other waterways. Culvert sizes, grades, materials, and placement shall meet the standards of the St. Joseph County Road Commission or the St. Joseph County Drain Commissioner, if applicable.

- (5) To have a road bed of at least 20 feet in width (or 12 feet for a single-loaded one-way road) plus a compacted shoulder surfaced with gravel or grass of at least two feet in width on each side of the road bed. The roadway shall be constructed with a gravel base (MDSH 22A processed road gravel) of at least six inches, graded parallel to the road surface. The private road shall be paved with bituminous asphalt with a depth of at least two inches. Grades of the private road shall not exceed ten percent. T-intersections with public streets shall slope away from the public street for a distance of at least 50 feet from the centerline of the public street at a slope between 0.2 percent and 0.6 percent.
- (c) *Road end turn-arounds.* Private roads ending in a cul-de-sac or other turn-around shall not exceed 1,350 feet in length from the sideline of the public road to which connected to the center of the cul-de-sac or turn-around. Cul-de-sacs shall have a paved turn-around with a minimum diameter of 100 feet constructed to the same standards as the roadway and incorporate a center island with a diameter of 40 feet; provided, however, that the Planning Commission may waive or modify these cul-de-sac requirements where an alternate means of turn-around is provided, such as a Y-style turn-around, that is adequate for all vehicles potentially using the road, including emergency vehicles and moving vans.
- (d) *Required permits.* Any permits required by the State Highway or County Road Commission shall be obtained as required.
- (e) *Names and signs.* Private roads shall be named as approved by the Township Board in coordination with the County Road Commission and signs posted as arranged by the Township Board with the County Road Commission.
- (f) *Required plan approval.* Construction of proposed private roads requires the approval of a site plan by the Planning Commission that includes a detailed road construction plan, including a diagram of the standard cross section and layout prepared and sealed by a registered civil engineer. The site plan shall also show the proposed location of the private road, all existing or proposed lots or building sites adjoining or intending to use the private road, proposed grades, drainage systems, and signage.
- (g) *Maintenance agreement.* A written maintenance agreement with a detailed description of how and by whom the private road will be maintained, repaired, or reconstructed if needed to include snow removal, must be submitted to and approved by the Planning Commission. The agreement must identify who will be responsible for extending and/or enlarging the road to serve additional lots in the future, including provisions for the assessment of maintenance fees to be paid by the owners of benefitted (using) lots or properties. Maintenance agreements for private roads, and any revised versions required by the Planning Commission, shall be in recordable form and shall provide that the obligations thereunder run with the benefitted properties.
- (h) *Inspections.* To ensure compliance with the standards and requirements of this section, the following inspections shall be carried out by the Zoning Administrator or qualified inspector designated by him:
- (1) At completion of compacted base course, also checking sub-base and drainage work.
 - (2) Upon completion of paving and installation of required guards, signage, marking, drain grills, etc.
 - (3) Final, to confirm correction of any deficiencies per subsection (k) of this section.
- (i) *Waivers.* A written waiver of liability and indemnification agreement, on a form approved by the Township, releasing the Township from any liability for any claims of whatever nature resulting from or related to the construction, maintenance/repair, or use of the private road. Such agreement shall include the witnessed and notarized signatures of the owners of all properties adjoining any portion of the proposed private road, and shall extend to the successors and assigns of said lot owners.
- (j) *Construction/inspection certification fee.* Upon completion of construction of the private road, the applicant for special exception use approval shall submit to the Zoning Administrator the certification of a registered professional civil engineer stating that the private road has been completed in accordance with the approved site plan and the tentative approval of the Planning Commission. The certification shall be accompanied by such reasonable inspection fee as the Township Board may establish. The Zoning Administrator shall review the certification and inspect the constructed private

road with such assistance from a Township Engineer as may be necessary. The Zoning Administrator shall identify any deficiencies and inform the applicant of same.

- (k) *Final approval.* The Planning Commission's tentative approval shall be considered final upon the Zoning Administrator's verification of the following:
 - (1) The completion of the private road as required, including the correcting of any deficiencies identified by the Zoning Administrator.
 - (2) Proof of recording in the records of the St. Joseph County Register of Deeds of the fully executed maintenance agreement and the fully executed waiver of liability and indemnification agreement.
 - (3) Proof that the applicant has furnished the location and description of the completed private road to the St. Joseph County Sheriff's Department to be coordinated with the county emergency 911 service.
- (l) *Building permits.* Final approval of the private road by the Zoning Administrator shall be required before a building permit is issued for any construction on properties served by the private road.
- (m) *Maintenance and repair responsibility.* All maintenance, repair, snow removal, and other responsibility for a private road shall belong exclusively to the right-of-way or easement owner or owners of benefitted properties and in no circumstances shall Fabius Township have any liability or responsibility therefor. Further, the St. Joseph County Road Commission shall have no responsibility for an approved private road unless and until such private road is constructed to the standards of the county and accepted by the St. Joseph County Road Commission as a dedicated public street.
- (n) *Pre-existing nonconforming private roads.* Any existing lawfully created private road shall not be extended or expanded to serve additional properties unless such extension or expansion road provides for upgrading to meet the standards of this section and is approved by the Planning Commission. In addition, a private road approved pursuant to this section shall not be extended or otherwise made available to serve more than the approved number of residences unless the road is approved by the Planning Commission in accordance with the requirements and standards of this section.

(Zoning Ord. 1977, art. XIV, § 1422; Ord. No. 79, 3-24-2000; Ord. No. 81, 10-31-2000)

Sec. 46-663. - Land-structure relationship.

In R-1, R-2, R-3, and LR districts, structures on a lot or parcel shall be sited such that each dwelling or main building, with its associated accessory structures, shall be provided simultaneously with its own lot, with the lot and structures thereon conforming with the requirements of the zoning district in which they are situated. The foregoing provisions also apply to AG districts, except that on farms of at least 40 acres actively engaged in agriculture, up to three dwellings may be sited on a parcel or lot, however, such dwellings with their associated accessory structures shall be sited so that each in future can be provided with its own lot, with the lot and structures thereon conforming with the requirements of this chapter. The provisions of this section do not apply to public parks, not-for-profit children's camps, or religious or meditative retreats.

(Zoning Ord. 1977, art. XIV, § 1423; Ord. No. 79, 3-29-2002; Ord. No. 106, 5-3-2005)

Secs. 46-664—46-684. - Reserved.

DIVISION 2. - OFF-STREET PARKING AND LOADING

Sec. 46-685. - Requirements.

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-

street parking spaces, in conjunction with all land or building uses, shall be reported to the Township Zoning Administrator prior to the issuance of a building permit, as hereinafter prescribed:

- (1) Off-street parking spaces may be located within a non-required side or rear yard and within the rear yard setback unless otherwise provided in this article. Off-street parking shall not be permitted within a front yard or a side yard set-back unless otherwise provided in this article.
- (2) Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership by the applicant shall be shown of all lots or parcels intended for use as parking by the applicant.
- (3) Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage or combination thereof and shall be located on the premises they are intended to serve, and subject to the provisions of section 46-653, accessory buildings.
- (4) Any area once designated as required off-street parking shall never be changed to any other use unless and until equivalent facilities are provided elsewhere.
- (5) Off-street parking existing at the effective date of the ordinance from which this chapter is derived, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- (6) Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- (7) On the instance of dual function of off-street parking spaces, where operating hours of buildings do not overlap, the Board of Appeals may grant an exception.
- (8) The use of required off-street parking spaces for the storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.
- (9) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Township Zoning Administrator considers similar in type.
- (10) When units or measurements determining the number of required parking spaces result in the requirement for a fractional space, any fraction of one-half or more shall require one parking space.
- (11) For the purpose of computing the number of parking spaces required, the definition of floor area, usable, in section 46-3 shall govern.
- (12) The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Minimum Number of Parking Spaces
<i>Residential</i>	
Residential, single-family	Two per dwelling unit
Residential, multi-family	Two per dwelling unit
Housing for the elderly	0.5 per unit, plus one for each employee

Mobile home park	Two per mobile home, plus one for each employee
<i>Institutional</i>	
Churches, temples:	One per three seats or six lineal feet of pews in main space for worship
Hospitals:	One per bed, plus one per employee
Convalescent homes, homes for the aged	One for each four beds, plus one per employee
Elementary and middle schools	One per teacher, administrator, employee, plus one per auditorium seat
High schools:	One for each teacher, administrator, or employee, plus one for each auditorium seat.
Private clubs or lodge halls:	One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses:	One for each two members, plus spaces for each accessory use, such as a restaurant or bar.
Golf courses open to the public, but not miniature golf courses:	Six for each golf hole, plus one for each employee, plus spaces required for each accessory use, such as a restaurant or bar.
Stadium, sports arena, or similar place of outdoor assembly:	One for each three seats or for each six feet of benches.
Theaters and auditoriums:	One for each three seats, plus one for each employee.
<i>Offices</i>	
Banks:	One for each 100 feet of usable floor space.

Professional offices of doctors, dentists, lawyers, similar professions:	One for each 50 square feet of usable floor area in waiting rooms, plus one for each examining room, dental chair, or similar use area.
Business offices, other professional offices:	One for each 200 square feet of usable floor space.
<i>General Business and Commercial</i>	
Planned commercial or shopping center:	One for each 200 square feet of usable floor area (amended by Ord. No. 112, eff. March 26, 2006).
Beauty parlor or barbershop:	Three spaces for each of the first two chairs, 1½ spaces for each additional chair.
Auto wash, automatic:	One for each employee, plus reserve spaces five times the capacity of the car wash. Capacity is determined by dividing length of wash line in feet by 20.
Auto wash, self service or coin operated:	Three for each washing stall in addition to stall itself.
Bowling alleys:	Five for each bowling lane, plus spaces required for any accessory uses.
Dance halls, pool or billiards parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats:	One for each two persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Establishment for sale and consumption on the premises of beverages, food, or refreshments:	One for each 100 square feet of usable floor space, or one for each two persons allowed within the maximum legal occupancy load, whichever is greater.
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses:	One for each 800 feet of usable floor area, plus one space for each two persons employed in processing areas.

Gasoline service stations:	Two for each lubrication stall, rack, or pit, and one for each gasoline pump.
Laundromats and coin operated dry cleaners:	One for each two washing and/or dry cleaning machines.
Miniature golf courses:	Three for each hole, plus one for each employee.
Mortuary establishments:	One for each 50 square feet of usable floor space.
Hotel, motel, or other commercial lodging establishment:	One for each occupancy unit, plus one for each employee.
Motor vehicle sales and service establishments:	One for each 200 square feet of usable floor space of sales room and one for each auto service stall.
Nursery school, day nurseries, or child care centers:	One for each 350 square feet of usable floor space.
Retail stores except as otherwise specified herein:	One for each 200 square feet of usable floor space (amended by Ord. No. 112, eff. March 26, 2006).
<i>Industrial</i>	
Industrial or research establishments, and related accessory offices:	Five plus one for every 1½ employees on the largest working shift. Space shall also be provided for all construction workers during periods of plant construction.
Warehouses and wholesale establishments and related accessory offices:	Five plus one for every employee in the largest working shift, or one for every 1,700 square feet of usable floor space.

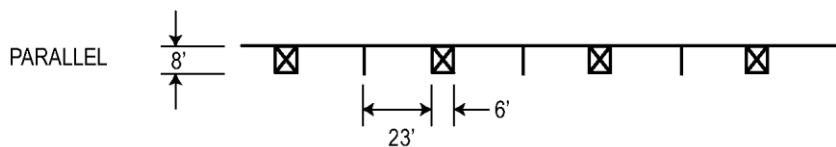
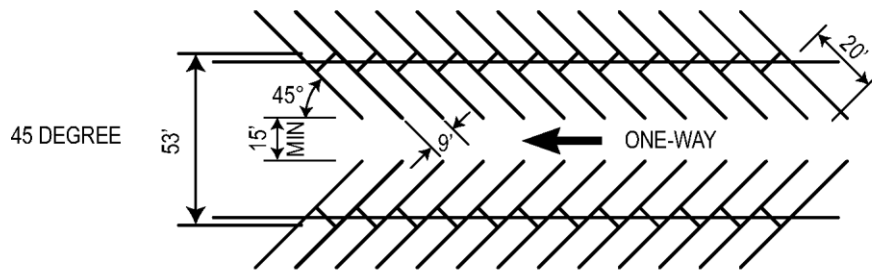
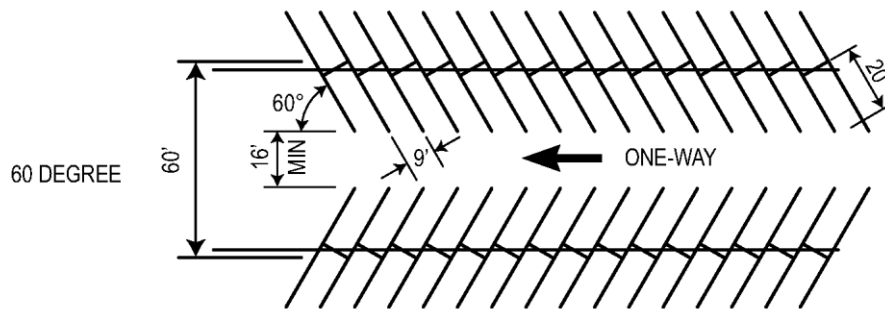
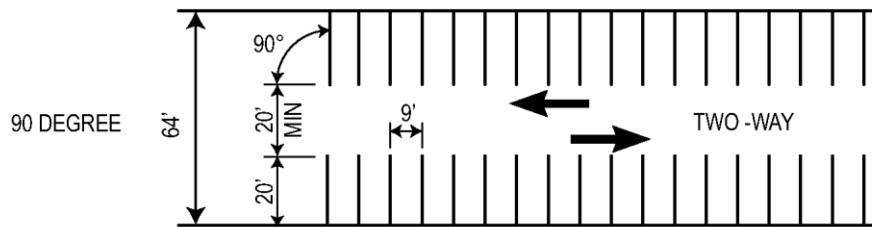
(Zoning Ord. 1977, art. XIV, § 1411; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 112, 3-26-2006)

Sec. 46-686. - Off-street parking space layout, standards, construction, and maintenance.

Whenever the off-street parking requirements of section 46-685 require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefor is issued by the Township Zoning Administrator, following site plan review and approval by the Planning Commission in accordance with division 2 of article II of this chapter.
- (2) Plans for the layout, construction, and maintenance of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Layouts



Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
Zero (parallel parking)	12	8	23	20 feet	28
30—53	15	9	20	32 feet 6 inches	53
54—74	16	9	20	38 feet	60
75—90	20	9e	20	44 feet	64

- a. Parking layouts. (See diagrams and specifications.)
- b. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- c. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
- d. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential shall not be across land zoned R-1, R-2, LR, or MH Single-Family Residential Districts.
- e. All maneuvering lane widths shall permit one way traffic movement, except that the 90-degree pattern may permit two-way movement.
- f. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential uses shall be at least 25 feet distant from adjacent property located in any R-1, R-2, LR, or MH district.
- g. The off-street parking area shall be provided with a continuous and obscuring wall not less than six feet in height measured from the surface of the parking area. This wall shall be provided on all sides where the abutting zoning district is designated as a residential district.
- h. When a front yard setback is required, all land between said wall and front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped. The ground area and landscaping shall be kept neat and orderly in appearance and all living materials shall be maintained in a healthy, growing condition.
- i. The entire parking area, including parking spaces and maneuvering lanes required under this section shall be provided with a durable, paved surface.

- j. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- k. All lighting used to illuminate any off-street parking area shall be so installed and shielded to be confined within and directed onto the parking area only. (See section 46-650, exterior lighting.)
- l. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
- m. Where, in unusual circumstances, no good purpose would be served by compliance with the yard or wall requirements of this section, the Zoning Board of Appeals, upon application by the property owner of the off-street parking area, may modify said yard and wall requirements.

(Zoning Ord. 1977, art. XIV, § 1412; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 112, 3-26-2006)

Sec. 46-687. - Off-street loading and unloading space.

- (a) On the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way.
- (b) Such spaces shall be provided as follows:
 - (1) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from off-street parking requirements. Where an alley exists or is provided at the rear of a building, the rear building setback and loading requirements may be computed from the center of said alley.
 - (2) Within I-1 districts, all spaces shall be laid out in the dimensions of at least ten feet by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a permanent, durable concrete or asphalt paved surface. All spaces in I districts shall be provided in the following ratio of spaces to floor area:

Gross Floor Area	Loading/Unloading Space Required
Zero—1,400 square feet	None
1,401—20,000 square feet	One space
20,001—100,000 square feet	One space, plus one additional space for each 20,000 square feet in excess of 20,001 square feet
100,001 square feet and over	Five spaces

- (3) All loading and unloading in I-1 districts shall be provided in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard, when the setback is at least 50 feet.

(Zoning Ord. 1977, art. XIV, § 1413; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)