

# Minden Township

Sanilac County, Michigan

## **2010 Zoning Ordinance**

MINDEN TOWNSHIP  
SANILAC COUNTY, MICHIGAN  
**ZONING ORDINANCE**

TABLE OF CONTENTS

<b>ARTICLE I TITLE AND PURPOSE</b> .....	1-1
1.00.00 Title .....	1-1
1.01.00 Purpose.....	1-1
<b>ARTICLE II DEFINITIONS</b> .....	2-1
<b>ARTICLE III GENERAL PROVISIONS</b> .....	3-1
3.00.00 Scope of Ordinance.....	3-1
3.01.00 Accessory Buildings.....	3-1
3.02.00 Alternative Energy Systems (Small Scale) .....	3-1
3.03.00 Building Restrictions .....	3-3
3.04.00 Reserved.....	3-4
3.05.00 Codes Adopted by Reference.....	3-4
3.06.00 Dangerous Animals .....	3-4
3.07.00 Grading, Drainage, and Tiling.....	3-5
3.08.00 Home Occupations.....	3-5
3.09.00 Junkyards .....	3-6
3.10.00 Land Use and Dwelling Limitations .....	3-6
3.11.00 Manufactured Homes .....	3-6
3.12.00 Non-Confirming Uses-Buildings and Structures.....	3-7
3.13.00 Nuisance .....	3-7
3.14.00 Parking of Recreational Units .....	3-8
3.15.00 Parking Off Street and Access and Egress Therefrom .....	3-8
3.16.00 Performance Standards.....	3-9
3.17.00 Permit and Site Plan Required.....	3-11
3.18.00 Private Ponds or Lagoons .....	3-12
3.19.00 Section Lines .....	3-13
3.20.00 Signs .....	3-13
3.21.00 Storage Yards.....	3-14
3.22.00 Subdivisions.....	3-14
3.23.00 Swimming Pools.....	3-14
3.24.00 Temporary Dwellings.....	3-15
3.25.00 Transition Zoning .....	3-16
3.26.00 Transmission or Distribution Lines.....	3-16
3.27.00 Wireless Communication Towers .....	3-17
3.28.00 Unsightly Ventures.....	3-21
3.29.00 Unused Automobiles and Vehicles.....	3-21
3.30.00 Water Supply and Sewage Disposal.....	3-22
<b>ARTICLE IV ADMINISTRATION</b> .....	4-1
4.00.00 Administration.....	4-1
<b>ARTICLE V ADMINISTRATION AND FEES</b> .....	5-1
5.00.00 Zoning Administrator.....	5-1
5.01.00 Fees.....	5-1

**ARTICLE VI PLANNING COMMISSION** .....6-1

6.01.00 Creation of the Planning Commission.....6-1

6.02.00 Purpose.....6-1

6.03.00 Membership.....6-1

6.04.00 Compensation .....6-2

6.05.00 Duties of the Planning Commission .....6-2

6.06.00 Funding.....6-4

**ARTICLE VII BOARD OF ZONING APPEALS** .....7-1

7.00.00 Creation .....7-1

7.01.00 Membership.....7-1

7.02.00 Terms of Members and Officers .....7-2

7.03.00 Jurisdiction .....7-2

7.04.00 Meetings and Hearings .....7-3

7.05.00 Hearings by Board of Zoning Appeals.....7-3

7.06.00 Appeals.....7-3

7.07.00 Exercising Authority .....7-4

7.08.00 Guidelines and Factors .....7-4

7.09.00 Deliberation .....7-4

7.10.00 Decision Final.....7-4

**ARTICLE VIII GENERAL EXCEPTIONS AND RESTRICTIONS** .....8-1

8.00.00 Pre-Existing Non-Conforming Uses .....8-1

8.01.00 Special Land Uses.....8-1

8.02.00 Special Land Use Hearing and Notice.....8-2

8.03.00 Special Land Use Guidelines .....8-3

8.04.00 Variances.....8-4

**ARTICLE IX ESTABLISHMENT OF DISTRICTS** .....9-1

9.00.00 Types.....9-1

9.01.00 Maps.....9-1

9.02.00 Boundaries of Zoned Districts .....9-1

9.03.00 Agricultural-Residential District.....9-1

9.04.00 Commercial Districts .....9-5

9.05.00 Industrial Districts .....9-7

9.06.00 Agricultural-Industrial Districts .....9-10

9.07.00 Wind Energy Overlay District .....9-12

**ARTICLE X AMENDMENTS** .....10-1

10.00.00 Initiation of Amendments.....10-1

10.01.00 Procedure.....10-1

10.02.00 Finality.....10-2

10.03.00 Consideration of Amendments .....10-2

**ARTICLE XI ENFORCEMENT** .....11-1

11.00.00 Violations.....11-1

11.01.00 Penalties.....11-1

11.02.00 Prosecution.....11-1

11.03.00 Court Action .....11-1

11.04.00 Cost and Attorney Fees .....11-1

**ARTICLE XII SEVERANCE AND REPEALOR** .....12-1  
    12.00.00 Severance .....12-1  
    12.01.00 Repealor .....12-1  
**ARTICLE XIII EFFECTIVE DATE**.....13-1

ALSO ATTACHED (but separate from Zoning Ordinance)

**ANNUAL FEE RESOLUTION**

**TOWNSHIP OF MINDEN**  
**SANILAC COUNTY, MICHIGAN**

**ZONING ORDINANCE**

THIS ORDINANCE APPLIES TO THE UNINCORPORATED AREAS OF THE TOWNSHIP OF MINDEN, PROVIDING REGULATIONS FOR LOCATION, SIZE, HEIGHT, AND USE OF BUILDINGS AND STRUCTURES, AREA AND DIMENSIONS OF LOTS AND YARDS; THE USE OF LANDS IN THE UNINCORPORATED AREA TO BE DIVIDED INTO ZONES OR DISTRICTS OF SUCH NUMBERS, SIZES OR SHAPES AS ARE DEEMED BEST SUITED TO CARRY OUT THE PURPOSE OF THIS ZONING ORDINANCE; PROVIDING A METHOD OF ADMINISTRATION, AND PRESCRIBING PROCEDURES AND PENALTIES FOR ENFORCEMENT.

*The Township of Minden Ordains:*

**ARTICLE I**  
**TITLE AND PURPOSES**

**1.00.00 TITLE**

This Ordinance shall be known as the Minden Township Zoning Ordinance.

**1.01.00 PURPOSE**

The fundamental purposes of this Ordinance are to promote health, safety, morals, comfort and general welfare; to conserve and protect property and property values; to reduce hazards to life and property, to promote the use of lands and resources in the Township in accordance with their character and adaptability; to secure the most appropriate agricultural and economical provision of public improvements, all in accordance with a comprehensive plan.

The Township Board of Minden finds it necessary and advisable to promote and regulate the growth of said Township, according to the provisions of this Ordinance.

Divisions in the unincorporated areas referred to as Districts are graphically presented on the map to be found in the Township office, which, from time to time may be supplemented by legal descriptions in the Appendix.

Article II  
**DEFINITIONS**

**2.00.00 DEFINITIONS**

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "*shall*" is always mandatory and not merely directory. The word "*may*" is always discretionary. Any word not herein defined shall be construed as in the State Construction Code of 1972 (1972 PA 230, MCLA 125.1501 et seq.) and the Zoning Enabling Act (2006 PA 110; MCLA 125.3101 et seq.) and the amendments thereto. Other terms, phrases, and words not herein defined shall have the meaning customarily assigned to them by general usage in the English language. A specific provision of this Ordinance may provide definitions specifically applicable to that section.

**ABUTTING**

A lot or parcel, which shares a common border with another lot, parcel or right of way.

**ACCESSORY STRUCTURE**

A structure erected on the same lot or site as the principal use building and intended to serve a purpose incidental to the principal use building, including but not limited to buildings, swimming pools, tennis courts, towers, driveways, parking areas, underground tanks, fences and satellite antennae.

**ACCESSORY USE OR ACCESSORY BUILDING**

A subordinate use or building customarily incident to and located on the same lot with the main use or building.

**ADJACENT** (lot or parcel)

A lot or parcel which abuts or is directly across a public street or private easement from another lot or parcel.

**ALLEY**

Any public space or thoroughfare twenty (20) feet or less in width, but not less than ten (10) feet in width, which has been dedicated or deeded to the public use and which affords secondary access to abutting property.

**ALTERATION**

A change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**ANIMAL CONTROL OFFICER**

Animal Control Officer shall be the animal control officer for the County of Sanilac, the Township supervisor, Zoning Administrator, or any person authorized by Township by resolution.

**ANTENNA**

The surface from which wireless radio signals are sent and received by a personal wireless service facilities.

**APARTMENT**

A dwelling unit within a building containing three (3) or more dwelling units.

**APARTMENT HOUSE**

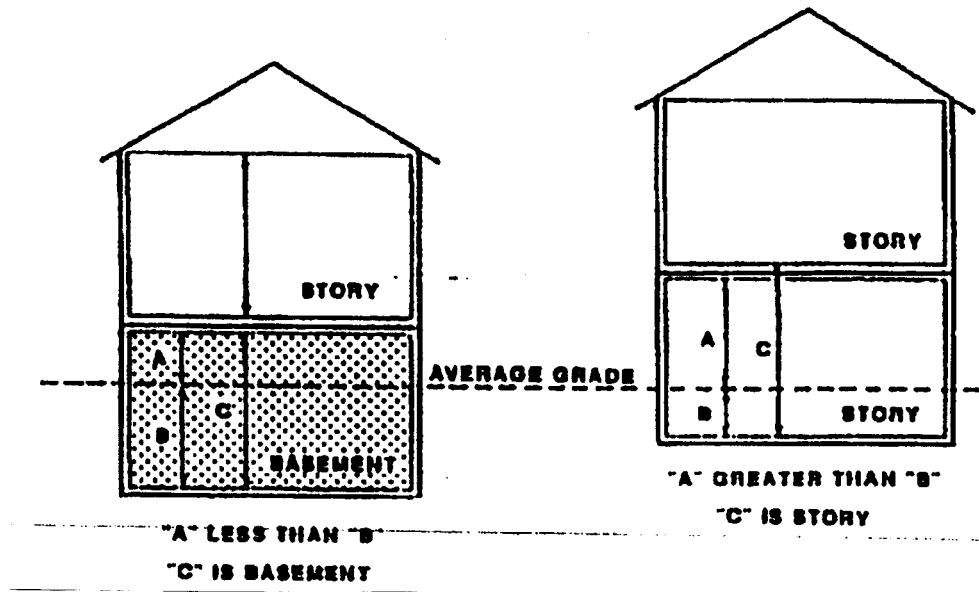
A multi-family dwelling for three or more families, living independently of each other as separate housekeeping units, with separate access and egress, and doing their cooking upon the premises.

**AREA, BUILDING**

The aggregate of the maximum horizontal cross section area of the main building on a lot, excluding cornices, eaves, gutters, or chimneys projecting not more than 3 feet, steps, one-story open porches, bay windows, not extending through more than one story and not projecting more than 2 feet, balconies and terraces.

**BASEMENT**

A portion of a building which is partly or wholly below grade so located that the vertical distance from average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the grade to the ceiling is over 5 feet, such basement shall be rated as a first story.



**BUILDING**

A structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, including but not limited to tents, lunch wagons, dining cars, mobile homes, trailers, and other roofed structures on wheels or other supports, used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.

**BUILDING HEIGHT** See "Height, Building"

**BUILDING LINE**

The vertical plane beyond which no building or other structure or portion thereof may be erected, for setback purposes.

**CABIN**

Any building or structure which is maintained, offered or used for overnight sleeping quarters or for temporary occupancy by transients.

**CESSPOOL**

A cavity in the ground that receives waste to be partially absorbed directly or indirectly by the surrounding soil.

**CONDITIONAL USE**

See "Special Land Use"

**COURT**

An occupied open space, other than a yard, on the same lot with a building, which is bounded on two or more side by the walls of such building.

**COURT, INNER**

An occupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

**COURT, OUTER**

A court enclosed on not more than three sides be exterior walls, and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

**CURTILAGE**

The enclosed space of ground and buildings immediately surrounding a dwelling.

**DETENTION FACILITY**

Any prison, penitentiary, reformatory, House of Correction, jail, community residential center, institution, halfway house, regional correction/detention facility, treatment center, group home, training center or camp, etc. operated or leased by the Department of Corrections or Department of Social Services constructed and maintained under Act 274 of 1979 or other halfway houses, probationary camps, farms, shops, places of employment operated by or under the supervision of the Department of Corrections providing services to adult or juvenile criminal offenders. (See also Juvenile Detention/Correction Facility.)

**DISTRICT**

A portion of the unincorporated part of the Township within which certain regulations and requirements apply under the provision of this ordinance.

**DWELLING**

A building designed or used as the living quarters for one or more persons.

**DWELLING HOUSE**

A building designed for and occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.

**DWELLING UNIT**

One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping, and dining.

**DWELLING, MULTIFAMILY**

A dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities.

**ERECTED**

Any physical operations on the premises required for the construction or placement and includes construction, building, reconstruction, alteration, excavation, fill, drainage, installation of utilities, etc.

**EROSION**



The collapse or subsidence of land along the shore of a lake or other body of water, including drains, creeks, streams and rivers, as a result of erosion or undermining caused by waves or currents of water. Soil erosion is the wearing away of land by the action of wind, water, gravity or a combination of wind, water and/or gravity.

**ESSENTIAL SERVICE**

The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities for municipal departments or commissions or for the public health, safety or general welfare.

**FAMILY**

Two or more persons doing their own cooking, and living upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, kinship, marriage or other legally recognized domestic bond. The term "*family*" does not include the transient assembly of persons unrelated by birth, kinship, marriage or other legally recognized domestic bond or for educational, medical, psychological, rehabilitative or punitive purposes.

**FARM**

All of the associated land operated as a single unit on which bona fide farming is carried on. Includes the plants, animals, buildings, structures, ponds used for agricultural or aquacultural activities, machinery, equipment and other appurtenances used in the production of farm products. Further includes livestock and poultry raising, feedlots, dairying, crop production, forestry, tree and shrub nurseries, greenhouses, sod farms, truck gardens and similar enterprises involving agricultural production. Stone quarries, gravel pits, sand pits, or peat mining operations shall not be considered farms.

**FARM BUILDING**

Any building or structure, other than a dwelling, which is customarily used on farms for the pursuit of agricultural activities.

**FARM DWELLING**

Any dwelling located on a farm as defined by this Ordinance and occupied as the home, residence or sleeping place of the owner-operator, manager or tenant farmer of that farm.

**FENCE**

A partition, structure, or gate erected as a dividing marker, barrier, or enclosure.

**FLEA MARKET**

An enclosed shop or open market wherein two or more vendors sell new or used goods, antiques, curios, art objects, collectibles, or other merchandise.

**FLOOD OR FLOODING**

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of drains, creeks, streams, rivers, lakes or other inland water, proximately caused by severe storms, hurricanes, tornadoes, or heavy rains.

**FLOOR AREA, GROSS**

The "gross floor area" shall be the sum of the horizontal areas of the several floors of the building excluding areas used for accessory garage purposes and such basement areas as are devoted

exclusively to uses accessory to the operation of the building. All horizontal dimensions shall be taken from the exterior faces of walls, including walls or other enclosures or enclosed porches.

**GARAGE, PRIVATE**

A building or part thereof accessory to a main building and providing for the storage of motor vehicles and in which no occupation or business for profit is carried on.

**GARAGE, PUBLIC OR STORAGE**

A building or part thereof (other than a private residential garage) for the storage of motor vehicles or boats or in which service, maintenance or repair activities may be performed.

**GARAGE SALE**

A sale of primarily used goods, antiques, curios, clothing, etc., operated on residential property by the owner or occupant on an occasional basis.

**GASOLINE SERVICE STATION**

A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles or boats alone or together with the sale of minor accessories and/or the servicing of and minor repair of motor vehicles. A special land use permit is required.

**GRADE**

The highest ground elevation in contact with any portion of the basement or foundation of a dwelling.

**HEIGHT, BUILDING**

The vertical dimension measured from the average elevation of the finished lot grade at the front of the building, to the highest point of the building.

**HIGHWAY OR STREET**

A highway or street means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**HOME OCCUPATION**

Any gainful occupation conducted by members of the family only within their place of residence, provided that the space so used is clearly incidental to the residential use of the dwelling. All home occupations shall comply with the standards set forth in Section 3.08.00.

**HOTEL**

A building with general kitchen and dining facilities and containing rooms intended or designed to be used, rented or hired out to be occupied for sleeping purposes by guests.

**INDUSTRY**

The production, manufacture or fabrication of products with the intention of profit. The term also includes the ancillary repair, modification or alteration of products.

**JUNK**

Articles that have outlived their intended usefulness in their original form and are commonly discarded or gathered up to be converted into another product, either of the same or different kind.

**JUNKYARD**

An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled, shredded or handled, including, but not limited to, scrap iron and other metals, paper, rags, tires and bottles. A "junkyard" includes a salvage yard,

automobile wrecking yards and includes any area of unreasonable accumulation for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

**KENNEL**

Any lot, premises or establishment in or on which three (3) or more dogs or cats are confined and kept for sale, permanent or temporary boarding, breeding, or training purposes for profit.

**LANDFILL**

Any parcel of land maintained or operated either primarily or incidentally for the purpose of the disposal or dumping of garbage, refuse, trash, or any recycling plant or storage area for disposing material.

**LIVESTOCK**

Animals including, but not limited to, horses, mules, donkeys, cattle, sheep, goats, swine, poultry, and rabbits.

**LOADING SPACE**

An off-street, non-agricultural related space on the same lot with a building, or contiguous to a group of buildings for unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

**LOT**

A parcel of land capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this ordinance.

**LOT, CORNER**

A lot at the point of intersection of and abutting on two or more intersecting streets. It is the land occupied or to be occupied by the corner building and its accessory buildings.

**LOT LINES**

The line dividing a lot from a street. On a corner lot only one street line shall be considered as a front lot line and the front of the house shall be determined the front lot line.

Rear lot line: The line opposite the front lot line.

Side Lot Line: Any lot line other than the front lot line or the rear lot line.

**MOBILE, FACTORY BUILT OR PORTABLE HOME**

As used herein the term "mobile home" shall mean a movable or portable dwelling constructed to be towed on its own integral chassis and designed for permanent year-round living as a single family dwelling. Provided, however, that the term "mobile home" shall not include modular homes (which are transported to the placement site on independent frames and running gear), motor homes, campers, recreation vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and potable water utilities.

**MOTEL**

A series of attached, semi-detached or detached rental units containing bedroom and toilet facilities for temporary lodging for compensation.

**NON-CONFORMING BUILDING**

A building or portion thereof existing at the effective date of this ordinance, or amendments thereto, that does not conform to the use provisions of the ordinance.

**NON-CONFORMING USE**

A use of land, existing at the time of the enactment of this ordinance, which does not conform to the regulation of the district in which it is located.

**NUISANCE**

Any condition or use of premises or of building exteriors which is unsightly or detrimental to the property of others, which causes or tends to decrease the value of other property in the neighborhood and /or which repeatedly offends or annoys members of the neighborhood.

**OCCUPIED**

Includes the use of a building or land for the purpose for which it was designed, arranged or intended.

**OFF-STREET PARKING LOT**

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 motor vehicles.

**PARKING SPACE**

An area of not less than 180 square feet, net, exclusive of access or maneuvering area, or ramps, columns, etc., to be used exclusively as a temporary storage space for one private motor vehicle. Truck loading and unloading space shall not be included in such area.

**PLAYGROUND**

A parcel of land set aside for outdoor games or recreational purposes with no admission charge.

**POND**

A natural or man-made body of water without an encircling fabricated retainer.

**PUBLIC SERVICE FACILITIES**

Public service facilities (within the context of this ordinance) shall include but not be limited to such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities and similar uses.

**RAZING**

To destroy, demolish, level to ground, etc.

**RESIDENTIAL STRUCTURE**

Any building, including a mobile home, occupied, intended to be occupied or constructed to be occupied as a dwelling unit for humans.

**RETAIL AND COMMERCIAL ESTABLISHMENTS**

A store market or shop in which commodities or services are sold or offered for sale in a small or large quantity to the retail trade. Grocery and general stores, meat markets, and automobile service stations are included in this classification.

**ROADWAY**

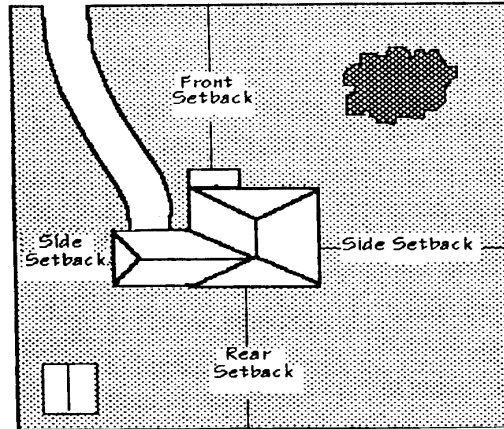
“Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel. In the event a highway includes two (2) or more separate roadways, the term “roadway”, as used herein, shall refer to any such roadway separately, but not to all such roadways collectively.

**ROOMING HOUSE**

Any dwelling in which more than two persons, either individually or as families, are housed or lodged for hire, with or without meals. A bed and breakfast, boarding house or furnished rooming house shall be deemed a "rooming house".

## SETBACK

The distance required to establish front, side or rear yard open space.



## SIGNS

Any device intended to be used to attract attention, convey information, or advertise in view of the general public. A sign having two sides back-to-back constitutes one sign for the purpose of this ordinance.

## SIGN AREA

The total surface area of a sign. In the case of signs having two sides back-to-back, the sign area shall be the total surface area of one side of the sign. Signboards, billboards, etc displaying thirty five (35) square feet or more shall be considered as accessory structures.

## SPECIAL LAND USE

A Special Land Use (also known as "conditional use" or "special approval use") is a use conditionally permitted only after application to, and review by, the Planning Commission and approval of the Township Board; review being necessary because the provisions of this ordinance cannot be made precise enough to all applications. The decision of the Township Board is reviewable by the Board of Zoning Appeals. These land uses cannot be conveniently allocated to one zone or another, or the effects of each individual use cannot be definitely foreseen.

The Special Land Use differs from the Variance in several respects. A special land use does not require "undue hardship" or "unusual circumstances" in order to be allowable.

### Two Categories of Special Land Uses

- A. Though an area may be appropriately zoned, certain proposed uses may require review and authorization by the Township Board before such use may be undertaken. The general characteristics of these Special Land Uses may include one or more of the following:
  - 1) They require large areas.
  - 2) They are infrequent activities.
  - 3) They sometimes create an unusual amount of traffic.
  - 4) They are sometimes obnoxious or hazardous.
  - 5) They may affect public safety and convenience.
  - 6) They may not be compatible with existing developments in the area.
  - 7) They may not comply with the Performance Standards Schedule.
- B. Other special land uses may be granted, conditionally, or without restriction, when it is determined by the appropriate agency that though literally defined as a more restricted use, the proposed use is not inconsistent with the uses in the immediate environment.

**STREET**

A public thoroughfare which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

**STORAGE YARD**

The use of open land, or land intended to be used, for the storing or keeping of cars, vehicles, boats, equipment, products or other personal property, whether or not it is adjacent to and part of a business or commercial use or industrial use, and whether or not a fee is charged for storage therein.

**STRUCTURE**

Anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.

**SWIMMING POOL**

A fabricated or artificially formed body of water retained within a manufactured or fabricated structure.

**TEMPORARY BUILDING OR TEMPORARY USE**

A structure or use permitted to exist during periods of construction of the main building or use, or for special events.

**TOURIST HOME**

Any dwelling used or designed in such a manner that certain rooms in excess of those used by the family and occupied as a dwelling unit are rented to the public for compensation and shall cater primarily to the public traveling by motor vehicle such as a bed and breakfast establishment.

**TRAILER COURT**

Any plot of ground upon which more than two (2) manufactured trailer coaches, occupied for dwelling or sleeping purposes, are or may be located.

**TRAILER COACH (MOTOR HOME)**

Any vehicle designed, used or so constructed as to permit its being used as a conveyance upon the public street or highways and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping space for one or more persons.

**TRAVEL TRAILER**

A vehicle designed as a travel unit for occupancy as a temporary or seasonable vacation living unit.

**USE**

The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

**YARDS**

The open spaces on the same lot with a main building or main use, unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance and as defined herein.

Front Yard - 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 line of the main building.

Rear Yard - 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 line of the main building.

Side Yard - An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

### **VARIANCE**

A modification of the literal interpretation of the zoning ordinance, granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. THE CRUCIAL POINTS OF VARIANCE ARE UNDUE HARDSHIP AND UNIQUE CIRCUMSTANCES APPLIED TO PROPERTY. A VARIANCE IS NOT JUSTIFIED UNLESS ALL OF THESE ELEMENTS ARE PRESENT IN THE CASE. A VARIANCE MAY BE AUTHORIZED BY THE BOARD OF APPEALS, ONLY.

### **WILD OR EXOTIC ANIMAL**

Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law, absent a license or permit to possess. Wild or exotic animals shall include but not be limited to, the following family groups: Alligator, deer, opossum, badger, dog (wild family), primate (excluding human), bear, wolf, wolf-dog interbred, raccoon, ferret, skunk, cat (wild family), lemur, poisonous spider, coyote, poisonous lizard, weasel, marten and snake.

### **WIRELESS COMMUNICATION TOWER**

Any guyed, monopole, or self-support (lattice) tower, constructed as a free standing structure proposed to contain or containing one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electronic communications. This definition does not include amateur radio operator antennas or television antennas which are accessory to a residential use, or communications facilities which are exclusively accessory to a marine use.

Article III  
**GENERAL PROVISIONS**

**3.00.00 SCOPE OF ORDINANCE**

No land or structures shall hereafter be used, occupied, located, constructed, erected, altered or moved upon any premises other than in conformity with provisions of this Ordinance.

**3.01.00 ACCESSORY BUILDINGS**

Unless otherwise specified in this Ordinance, the total first floor area of all accessory buildings on a parcel of land shall not exceed four percent (4%) of the total parcel area.

**3.02.00 ALTERNATIVE ENERGY SYSTEMS (SMALL SCALE)**

**3.02.01 Small Scale Alternative Energy Systems**

Small scale alternative energy systems including, but not limited to solar, thermal, hydro, or biomass, for the purpose of serving residential, agricultural, commercial or industrial buildings on site shall be permitted as an accessory use in the Agricultural-Residential, Commercial, and Industrial Districts provided they are in compliance with State and Federal regulations.

A. Requirements

- 1) The structure employed shall be subject to site plan approval by the Minden Township Zoning Administration. A simple site plan shall be drawn to an appropriate scale and shall provide construction details and show the location of all existing public roads, existing structures, utility lines and all structures, facilities and power lines to be constructed on the site as well as identifying adjoining property owners and the location of any structures on adjoining properties.
- 2) No small scale alternative energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a Minden Township Land Use Permit from the Zoning Administrator. Applications and fees apply. Such fees are as established in the Minden Township Annual Fee Ordinance.
- 3) The property owner shall obtain any necessary electrical permits required. No system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 4) The property owner shall construct and maintain the small scale alternative energy system in a safe and neat manner so as not to present a danger to neighbors or present an unsightly appearance.
- 5) The construction and operation of all such proposed small scale alternative energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.
- 6) It is unlawful for any person to construct, install, or operate a small scale alternative energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this section. Alternative energy systems installed prior to the adoption of this ordinance are exempt.
- 7) This section shall be administered and enforced by the Zoning Administrator or other official as designated. The Zoning Administrator may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.



- 8) Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this section shall be guilty of a Grade A civil infraction and subject to enforcement and penalties as allowed by applicable law.

### 3.02.02 Small Scale Wind Energy System

Small scale wind energy systems for the purpose of serving residential, agricultural, commercial or industrial buildings on site shall be permitted as an accessory use in the Agricultural-Residential, Commercial, and Industrial Districts provided they are in compliance with State and Federal regulations and the following requirements:

#### A. Definition

Small Scale Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than one hundred (100) kW and which is intended to primarily reduce on-site consumption of utility power.

#### B. Requirements

- 1) The structure employed shall be subject to site plan approval by the Minden Township Zoning Administration. A simple site plan shall be drawn to an appropriate scale and shall provide construction details and show the location of all existing public roads, existing structures, utility lines and all structures, facilities and power lines to be constructed on the site as well as identifying adjoining property owners and the location of any structures on adjoining properties within 1.1 times the total height of the turbine/wind tower of the common property lines.
- 2) No small scale wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a Minden Township Land Use Permit from the Zoning Administrator. Applications and fees apply. Such fees are as established in the Minden Township Annual Fee Ordinance.
- 3) The property owner shall obtain any necessary electrical permits required. No system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 4) The property owner shall construct and maintain the small scale wind energy system in a safe and neat manner so as not to present a danger to neighbors or present an unsightly appearance. The property owner receiving site plan approval shall provide a verified report of a qualified contractor as to the structural integrity of the tower and wind turbine assembly. Facilities, including but not limited to towers, shall be subject to any requirements of the Uniform Construction Code and manufacturer's recommendations.
- 5) The construction and operation of all such proposed small scale wind energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.
- 6) Towers and other facilities must follow generally applicable setbacks within the particular zoning district. The minimum setback between a wind energy system and public street(s) or family dwelling shall be no less than 1-1/4 times the total height of the wind tower.
- 7) A small scale wind energy system shall not exceed one hundred twenty (120) feet. The total height of a small scale wind turbine shall be the distance to the center of the hub of the wind turbine plus the distance to the tip of the turbine blade at its highest point.

- 8) The base of the wind tower shall be totally and permanently enclosed by a security fence at least six (6) feet high. No fence is required if the climbing apparatus is enclosed inside the wind tower and the entry is secured, or if the climbing apparatus is located at least eight (8) feet above the ground level.
- 9) The owner shall maintain the wind energy system in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and security measures. Any small wind energy system which has been abandoned to disrepair for one year shall be removed by the owner. If the owner is not in compliance the township shall have the authority to enter the owner's property and remove the system at the owner's expense.
- 10) All wind energy systems shall be non-reflective.
- 11) All efforts shall be made not to affect any resident with any strobe effect.
- 12) Small scale wind energy systems shall not exceed forty-five (45) dB at the property line closest to the wind turbine. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure levels exceed forty-five (45) dB the standard shall be ambient dB plus five (5) dB.
- 13) A small scale wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is protected by guy wires, the wires shall be clearly visible to a height of at least six (6) feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be twenty (20) feet for a wind energy system employing a horizontal axis rotor.
- 14) It is unlawful for any person to construct, install, or operate a small scale wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Wind energy systems installed prior to the adoption of this ordinance are exempt.
- 15) This section shall be administered and enforced by the Zoning Administrator or other official as designated. The Zoning Administrator may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
- 16) Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be guilty of a Grade A civil infraction and subject to enforcement and penalties as allowed by applicable law.

### **3.03.00 BUILDING RESTRICTIONS**

3.03.01 A land use application for the alteration of land or the construction, alteration or placement of structures shall be obtained from the Zoning Administrator or any Township Board Member. All completed land use applications shall be submitted to the Zoning Administrator. All applications for said permit shall be accompanied by a site plan (with dimensioned relationships identifying buildings, water services, sewage disposals, driveways, existing structures, etc.) and the non-refundable land use permit fee as established by the annual fee ordinance.

3.03.02 Residential, commercial, industrial or other construction, including mobile and/or manufactured home placement shall meet all requirements of this Zoning Ordinance relating to uses, size of premises, floor area, setback, side lot and rear lot requirements, etc. as specified for the particular zoning district in which said structure is to be located.

- 3.03.03 No building or land use permit shall be issued for the relocation and/or placement of any used site-built or manufactured (ie. mobile or modular) structure within the Township of Minden prior to issuance of a "Certificate of Compliance". "Certificates of Compliance" shall be prepared and verified by the building official of the municipality where the structure or unit is located and be filed with the Township only after inspection of the site-built, mobile or modular structure to ensure compliance with all federal, state and local building codes and ordinances.
- 3.03.04 The placement, relocation, construction, reconstruction or alteration of two (2) or more separately manufactured mobile home units (ie. which were not originally designed and manufactured as integral parts of a single prefabricated unit) is prohibited.
- 3.03.05 A land use or building permit may be issued for the construction, alteration or placement of structures on any premises within the Township of Minden which is the site of an existing land use violation provided that those violations are first brought into compliance with the Minden Township Zoning Ordinance.
- 3.03.06 A residential structure shall be connected to potable water and sanitary sewage disposal facilities approved by the health agency having jurisdiction.
- 3.03.07 Residential structures (including site built, factory built and mobile homes) shall:
- A. Comply with construction and site plans and be installed pursuant to the manufacturer's setup instructions. Comply with all local, state and federal building codes.
  - B. All site-built and factory-built residential structures (including modular and mobile homes) shall not be less than fourteen (14) feet in width at any point and shall have a minimum living area of at least seven hundred (700) square feet. Mobile home expansions may include only completely enclosed additions. Stick or site built additions shall not be included as part of the minimum living area square footage for Mobile Homes.
  - C. The placement, use and appearance of any structure, (whether residential, commercial or industrial) in any district within the Township of Minden shall be aesthetically compatible with the other structures and uses in the district, as determined by the Township Board. Mobile home skirting and tie-downs shall be installed prior to occupancy and within thirty (30) days of placement.
  - D. No person shall occupy any residential structure as a dwelling until an occupancy permit or certificate is issued by the Building Official.

### **3.04.00 COLLECTION LINES OR COLLECTION LINE SYSTEM**

- 3.4.01 All electric collection lines, whether underground and/or overhead, or collection line system which shall include any electric utility collection lines, whether underground and/or overhead, and related facilities, shall at all times remain in compliance with all applicable Federal, State, and local laws.
- 3.4.02 All underground and/or overhead collection lines, or collection line system in any zoning district that are not subject to the exclusive control and certification requirements of the Michigan Public Service Commission or other Federal or State agency shall require a special land use permit approved by the Township Board after recommendation by the Planning Commission following a public hearing.

3.4.03 An application for a special land use permit for underground and/or overhead collection lines or collection line system shall contain all of the following:

- A. The planned date for beginning construction.
- B. A detailed description of the proposed underground and/or overhead collection lines or collection line system, the route, expected configuration and use, and the anticipated maximum and minimum voltage.
- C. A detailed drawing of dwelling setbacks, with the minimum allowable setback for any overhead collection line being two hundred (200) feet and any underground collection line being fifty (50) feet from any dwelling.
- D. A description and evaluation of one or more alternate underground and/or overhead collection line routes and a statement of why the proposed route was selected.
- E. If the Zoning Ordinance prohibits or regulates the location or development of any portion of a proposed route, a description of the location and manner in which that zoning ordinance prohibits or regulates the location or construction of the proposed route.
- F. The estimated overall cost of the proposed underground and/or overhead collection lines or collection line system.
- G. Information supporting the need for the proposed underground and/or overhead collection lines or collection line system, including identification of known future wholesale users of the proposed collection lines or collection line system.
- H. Estimated quantifiable and nonquantifiable public benefits of the proposed underground and/or overhead collection lines or collection line system.
- I. Estimated private benefits of the proposed underground and/or overhead lines or collection line system to the applicant or any legal entity that is affiliated with the applicant.
- J. Information addressing potential effects of the proposed underground and/or overhead collection lines or collection line system on public health and safety.
- K. A detailed description of troubleshooting guidelines and methods for handling damage to the underground and/or overhead collection lines or collection line system (i.e. broken underground wires, downed wires, or storm damage).
- L. A summary of all comments received at any public meetings and the applicant's response to those questions.
- M. Information indicating that the proposed underground and/or overhead collection lines or collection line system will comply with all applicable local, state, and federal environmental standards, laws, and rules.
- N. MISS DIG Systems, Inc. of Michigan membership.
- O. Proof of liability insurance prior to the start of construction for all contractors and subcontractors that are to be part of the project.
- P. Other information reasonably required by the Township Planning Commission and Township Board.
- Q. A meeting shall be set with the Planning Commission to review the application for completeness prior to scheduling the public hearing on the matter.

**3.04.04 Wire Requirements**

- A. The electrical collection/distribution system shall be placed underground within the interior of each parcel at a depth of not less than four (4) feet to accommodate the existing agricultural land use to the maximum extent practicable.

- B. The collection system may be placed overhead adjacent to County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary, subject to applicable special land use permit requirements.
- 3.04.05 The collection line fee shall be set on a per mile basis by the Minden Township annual fee ordinance.
- 3.04.06 The special land use permit application shall be accompanied by the required fee as set by the Minden Township annual fee ordinance.]

**3.05.00 CODES ADOPTED BY REFERENCE**

The Michigan Construction Codes; electrical, mechanical, plumbing and building; 1984 PA 192, 1980 PA 299; 1956 PA 217, 1929 PA 266, 1901 PA 222 and the BOCA and Public Health Codes are hereby adopted by reference.

**3.06.00 DANGEROUS ANIMALS**

Harboring, exhibiting, keeping, raising, selling, buying, matchfighting or otherwise maintaining a dangerous animal, whether the animal is confined or running at large, is prohibited.

**3.06.01 Definition**

A dangerous animal is one which constitutes a physical threat to human beings or animals, or has a disposition or propensity to attack or bite persons or animals without provocation, or which is wild by nature and a species which, due to size, vicious nature or other characteristics, constitutes a danger to human life, safety physical well-being or property, or any animal which has been known to attack a human being or other domestic animals without provocation one (1) or more times. The term shall not include livestock or fowl routinely maintained in Sanilac County for purposes of animal husbandry.

**3.06.02 Dealing with Dangerous Animals**

- A) When the animal control officer determines that an animal is dangerous, the officer shall notify the property owner to immediately and securely confine said dangerous animal indoors in a securely enclosed and locked pen. The officer shall then direct the removal of the dangerous animal from the township within fifteen (15) days. If the property owner fails to comply, or if the property owner is not available and the officer determines that the animal is endangering the well being of others, said animal may be removed from the property by the animal control officer and impounded.
- B) Where a dangerous animal has caused serious physical harm or death to any person or animal, or has escaped and is at-large, or poses a threat to any person or animal, the animal control officer shall cause said animal to be immediately seized and impounded, or killed if seizure and impoundment are not possible without risk of physical harm or death to any person.

**3.06.03 Disposition of Dangerous Animals at Large**

Any dangerous or vicious animal found running at large in the Township, which, because of its disposition or diseased condition is too hazardous to apprehend, may be destroyed when so ordered by the County Animal Control Officer. In an emergency, if the animal control officer can not be contacted in time to avoid danger to any person, any police officer may destroy such animal without first contacting the Animal Control Officer.

### **3.07.00 GRADING, DRAINAGE, AND TILING**

No premises shall be so filled, graded or tiled as to discharge surface water run-off onto abutting or neighboring property in such a manner as to cause flooding, ponding or surface accumulation of such run-off or to cause erosion on the abutting or neighboring property.

### **3.08.00 HOME OCCUPATIONS**

#### **3.08.01 Definition (see Article II) Examples:**

Home occupations generally include, but are not limited to, crafts and services such as dress-maker, music teacher, dance instructor, professional artist, physician, surgeon, chiropractor, osteopath, dentist, architect, engineer, lawyer and other professional occupations and services.

#### **3.08.02 Employees**

Only the resident occupants shall be employed as primary providers of the services offered on the premises. Adequate parking shall be provided for non-resident support employees and may be authorized per Section 3.15.00 of the Minden Township Zoning Ordinance.

#### **3.08.03 Portion of dwelling used**

The home occupation shall occupy no more than one-third (1/3) of the total floor area of the dwelling. Any attached or detached garage used for Home Occupations shall not exceed six hundred (600) square feet of space devoted to the Home Occupation. Such use shall not involve any extension or modification of the dwelling, which will alter its outward appearance as a dwelling. In no event shall the occupation reduce the actual living space below that established as the current minimum requirement in the district involved.

#### **3.08.04 Parking**

Sufficient off-street parking shall be provided, which, in no event, shall be less than the parking prescribed in Section 3.15.00 (ie. 2 spaces for each dwelling unit plus two additional spaces).

#### **3.08.05 Signs**

Signs shall be in conformance with Section 3.20.00.

#### **3.08.06 Appearance**

The appearance of the premises shall be aesthetically compatible with the neighborhood, conforming as closely as possible to a residential use (e.g. lawns shrubbery, trees, backyards, etc.).

### **3.09.00 JUNKYARDS AND SALVAGE YARDS**

3.09.01 No land or premises shall be used for the construction, formation, creation, maintenance, alteration, enlarging or extending of a junkyard or salvage yard as herein defined, except by obtaining a special land use approval from the Township Board following the recommendation of the Township Planning Commission after a public hearing. The applicant for a Special Land Use permit shall file with the Planning Commission, in addition to the requirements of Section 3.17.00, the following:

- A. A statement giving the exact location and size of the premises and all buildings and structures to be erected or moved thereon or already existing. A scale site plan is required.
- B. An environmental impact statement
- C. A performance bond as set by the Planning Commission.

- D. The Planning Commission shall act in accordance with the provisions of Article VIII of this Ordinance in either granting or denying the Special Land Use Permit.

### **3.10.00 LAND USE AND DWELLING LIMITATIONS**

A second dwelling on a parcel of property shall be permitted with the approval of the Township Board following recommendation from the Planning Commission after a public hearing as a Special Land Use. Must be integrally independent unit and comply with all requirements including setbacks, floor area, height, lot size minimums, etc. Access and future uses must also be considered. Accessory structures shall conform in size to the requirements to Section 3.03.00.

### **3.11.00 MANUFACTURED HOMES (a/k/a mobile homes)**

Mobile homes which comply with the applicable standards of the Manufactured Mobile Home Commission are permitted in licensed Manufactured Home Communities. They shall be permitted in Mobile Home Subdivision and Residential-Agricultural Districts if, at a minimum, the conditions recited in 3.03.00 "Building Restrictions" are met. Applicants for land use permits for used mobile homes shall provide a Certificate of Compliance.

### **3.12.00 NON-CONFORMING USES - BUILDINGS AND STRUCTURES**

#### **3.12.01 Pre-Existing Non-Conforming Uses**

- A. Prior Lawful Use
- B. Discontinuance of Non-Conforming Uses
- C. Completion of Non-Conforming Building and Structures
- D. Structural Alterations
- E. Extension of Non Conforming Uses.

### **3.13.00 NUISANCE**

#### **3.13.01 Definition**

Any condition or use of premises or of building exteriors which is unsightly or detrimental to the property of others, which causes or tends to decrease the value of other property in the neighborhood and/or which repeatedly offends or annoys members of the neighborhood, this includes, but is not limited to:

#### **3.13.02 Examples**

Unsheltered and/or exposed storage or keeping or depositing on the premises any of the following examples (not all-inclusive):

- A. Lumber, junk, trash or debris;
- B. Highway vehicles not in good and safe condition and unlicensed, unused, junked and other automobiles, trailers, semi-tractors and semi-trailers, unless otherwise exempted.
- C. Vehicles, implements, machinery and other equipment and/or personal property which is no longer safely usable for the purpose for which it was manufactured (with the exception of farm equipment and machinery);
- D. Abandoned, discarded, or unused objects or equipment such as furniture, stoves, refrigerators, freezers, boats, cans, containers or other boxes with outside latches.
- E. All uncovered basements, abandoned wells, shafts or similar excavations.
- F. Harboring any dog(s), which, by loud and frequent or habitual barking, yelping or howling, shall cause annoyance to the neighborhood or to people passing upon adjacent streets.
- G. Creation or maintenance of noxious odors.

### 3.13.03 Structures or uses, which are in violation of this ordinance.

#### A. Abatement by owners, exemption

The owners, tenants or occupants of any property within the boundaries of the Township of Minden upon which a nuisance is alleged, and also the owners, lessees, or users of any property declared to be a nuisance, shall jointly or severally abate said nuisance by the prompt removal of said offensive property. Licensed and approved junkyards shall be exempt from this section.

#### B. Abatement by Township

- 1) In the event that the owners/tenants of property fail to remedy the violation(s), the Township may proceed to enforce the ordinance by consent, judicial order or other appropriate remedy.
- 2) When property has been removed and placed in storage by the Township, said property shall be sold after the lapse of such time as is provided by law. If the proceeds of such sale are insufficient to pay the costs of abatement said owners shall be liable to the Township for the balance of the costs, jointly and severally. If the proceeds are in excess of costs, the balance shall be paid to the owners, or deposited to the Township treasury for the owners' use.

### 3.14.00 PARKING OF RECREATIONAL UNITS

3.14.01 In all zoned districts with an occupied dwelling, the owner of a parcel of land may park or store two (2) recreational units on parcels one acre or more (ie. Motor Home, Boats), currently licensed to that owner, provided such vehicle shall not be parked or stored in the front yard space of the parcel of land or premises in residential districts.

3.14.02 In all use districts, recreational units shall be parked no less than seventy-five (75) feet from the road right of way.

3.14.03 Zoning Administrator may issue a permit for not more than twenty (20) recreational units to be located and occupied outside of approved storage or camping sites in Agricultural-Residential districts, for a cumulative total of not more than fourteen (14) days out of three hundred sixty five (365).

3.14.04 In the Agricultural-Residential district, parking and/or occupying not more than one (1) recreational vehicle on undeveloped parcels of ten (10) acres or more for not more than ninety (90) out of three hundred sixty five (365) days with permit obtained from the Township Zoning Administrator may be allowed. Permit fees shall be set by the Minden Township Annual Fee Ordinance.

### 3.15.00 PARKING OFF-STREET, ACCESS AND EGRESS THEREFROM

#### 3.15.01 **Off-street parking required**

For each dwelling, business, commercial, industrial or similar building hereafter erected or altered, and located adjacent to a public roadway in the Township and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way that is in general adequate for parking, loading and unloading of vehicles in proportions no less than shown on the following table.

#### 3.15.02 **Access**

Such space shall be provided with safe exit to and entrance from the public thoroughfare. Exit and entrance may be combined or provided separately.

#### 3.15.03 **Road Commission approval**



Approval of the location of such exit and entrance shall be obtained in writing from the County Road Commission, which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.

**3.15.04 Standard parking space size**

A minimum of one hundred eighty (180) square feet, (ie. nine (9) feet by twenty (20) feet) exclusive of drives, entrances and exits shall comprise one (1) automobile space.

**3.15.05 Turning area**

Adequate space shall be provided in the off-street parking area for turning the vehicle so that when a vehicle re-enters a public roadway it shall be driven in a forward manner and not backed onto said highway.

**PARKING SPACE TABLE**

Public Assembly Buildings (eg. Churches, auditoriums)	1 space for every four seats 1 space for every 200 ft <sup>2</sup> of floor area
Commercial Establishments.....	2 spaces per dwelling unit
Dwellings.....	1 space for every 200 ft <sup>2</sup> patronized by the public
Home Occupations.....	1 space for every 350 ft <sup>2</sup> patronized by the public and 1 space for every two regular employees
Manufacturing Establishments.....	1 space for every 100 ft <sup>2</sup>
Restaurants and Similar Establishments Serving Food/Drink .....	

**3.16.00 PERFORMANCE STANDARDS**

**3.16.01 Requirement**

- A. All uses of property are required to be in compliance with all performance standard set forth in this section.
- B. All applications for land use permits and building permits for structures and uses located in industrial districts and all Special Land Use applications shall be accompanied by a statement or assessment describing the environmental impact of the project and actions that will be taken to avoid adverse environmental effects.

**3.16.02 Preparation of Environmental Impact Statement**

The Statement shall be prepared by qualified personnel with applicable environmental expertise, and shall have all supporting documents attached.

**3.16.03 Statements for Commercial and Manufactured Home Subdivisions and Communities**

The Zoning Administrator or Planning Commission may also require Environmental Impact Statements for Commercial and Manufactured Home Subdivision and Community district applications and others when deemed necessary.

**3.16.04 Contents of Environmental Impact Statements**

Environmental impact statements will, at a minimum, evaluate the structure(s) and/or use by the following performance standards, the intent of which is to prevent injury, detriment, or nuisance to the public, persons, or property.

**3.16.05 Smoke**

Emission density shall not be greater than No. I of the Ringlemann chart except that for an aggregate of not more than four (4) minutes in any thirty (30) minute period

an emission equal to but not darker than No. 2 of the Ringlemann chart will be tolerated.

**3.16.06 Dust, dirt and fly-ash**

The quantity of gas-borne or airborne solids of fumes emitted into the open air shall not exceed two-tenths (0.20) grains per cubic foot of the carrying medium at a temperature of five hundred (500) degrees Fahrenheit. The foregoing conditions shall prevail when the percentage of excess air in the stack does not exceed fifty (50) percent at full load. All other forms of dust, dirt and fly-ash shall be completely eliminated in such a way as to prevent their emission into the open air.

**3.16.07 Gases**

Emission of gases shall not exceed the following designated limits: (SO<sub>2</sub>) Sulfur dioxide- an average of three-tenths (0.3) ppm over a twenty-four (24) hour period provided, however, that a maximum concentration of five-tenths (0.5) ppm will be allowed for one hour out of every twenty-four (24) hour period.

**3.16.08 Odor**

There shall be no emission of obnoxious odors. (H<sub>2</sub>S) Hydrogen sulfide- shall not exceed One (1.0) ppm.; (FL<sub>2</sub>) Fluorine- shall not exceed one-tenth (0.1) ppm.; (NO<sub>2</sub>) Nitrous fumes shall not exceed one-tenth (0.1) ppm.; (CO) Carbon monoxide- shall not exceed fifteen-hundredths (0.15) ppm.

**3.16.09 Glare and Heat**

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure such operation from direct view from any point along the property line, except during the period of construction of the facilities to be used and occupied.

**3.1610 Noise**

Emitted noise shall be so muffled or otherwise controlled, as not to become objectionable, due to intermittence, beat frequency, impulsive character (hammering, etc.), periodic character (humming, screeching, etc.) or shrillness. Sirens, bells, whistles, etc., which are utilized solely to serve a public purpose (such as fire, ambulance, police, civil warning alarms) shall be excluded from this regulation. The intensity level of sounds shall not exceed the following decibel levels on land adjacent to the described uses:

<u>deciBel Level</u>	<u>Adjacent Use</u>	<u>Measuring Site</u>
55	Residential District	Common Lot Line
55	Manufactured Home Sub and Community	Common Lot Line
65	Commercial Districts	Common Lot Line
70	Agricultural Residential	Common Lot Line
70	Industrial District	Common Lot Line
70	Maximum Sound Level	Lot Line Or Street

**3.16.11 Vibration**

No operation shall cause a seismographic displacement exceeding three-thousandths (0.003) of one inch measured at the property line.

**3.16.12 Erosion and surface water drainage**

Plans for management of surface water shall be reviewed, evaluated and approved by the Zoning Administrator and the County Soil Erosion Inspector.

**3.16.13 Traffic**

Traffic access and control patterns and devices shall be reviewed, evaluated and approved by the County Road Engineer.

**3.16.14 Water supply, consumption and wastewater pollution**

The environmental impact statement shall describe the water supply sources, estimated consumption and describe wastewater management techniques.

**3.16.15 Engineering -Evaluation**

Engineering evaluation of proposed development in commercial and industrial districts in relation to Site Development Standards may be required at the owner's expense when required by the Planning Commission.

**3.16.16 Screening Barriers**

Adequate greenbelts and/or screening barriers shall be established and maintained between unlike district boundaries and between developed industrial sites. They may be required between developed commercial sites.

**3.17.00 PERMIT AND SITE PLAN REQUIRED**

**3.17.01 Land Use Permit**

Permit required No use of land, nor any building, structure or mobile/manufactured home shall be erected, altered, constructed or moved upon any premises until the owner of said premises has made written application to the Zoning Administrator for a land use permit.

**3.17.02 Default or current violations**

Default on any monetary obligation to the Township of violation of this ordinance by the applicant, land owner, or tenant may prevent issuance of a land use permit.

**3.17.03 Conditions for issuance**

If the Zoning Administrator finds from the application that the provisions of this Ordinance and other legal requirements are met, then a permit shall be issued, otherwise it shall be denied.

**3.17.04 Land use permit exemptions**

Self-standing, portable structures (ie. gazebos, outbuildings, etc.) of less than one hundred forty four (144) square feet shall be exempt from permit and fee requirements, but shall not be exempt from zoning standards. Limitation of two (2) exemptions per parcel.

**3.17.05 Performance Guarantee**

- A. To ensure compliance with the provisions of this ordinance and any conditions which may be imposed by administrative action, the Zoning Administrator, the Planning Commission, the Board of Appeals or the Township Board may require the deposit of cash, certified check, irrevocable bank letter of credit or surety bond or some other acceptable performance guarantee be deposited with the Township Clerk whenever a Special Land Use or Variance is granted, or when a permit is issued for improvements to property other than residential.
- B. The cash deposit, along with accrued interest, shall be rebated bi-monthly, with the Township retaining an amount estimated to be (10) percent greater than the remaining project completion costs. The entire deposit shall be returned within sixty (60) days of satisfactory completion to be determined by Zoning Administrator approval.

**3.17.06 Site Plan**

- A. Every application for a land use permit shall be accompanied by a site plan showing the location and intended use (ie. residential, accessory for storage, pole barn for housing livestock, feed storage, etc.) of existing and proposed buildings and/or structures.
- B. The site plan shall also include the location of any existing and proposed water supply and lines, septic system, driveways, utility lines, adjacent roads, easements, the distance of each from property lines and other structures on the plan and any other relevant information.
- C. Site plans shall be initially reviewed as follows:
  - 1 The Zoning Administrator shall review site plans submitted for currently conforming uses.
  - 2 The Planning Commission and the Township Board shall review site plans concerned with rezoning.
  - 3 The Planning Commission shall review site plans submitted by applicant with Special Land Use requests to be recommended to the Township Board.
  - 4 The Board of Appeals shall review site plans submitted with requests for Variances and appeals from Special Land Use requests and Zoning Administrator's decisions.
- D. The site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner and the individual or body which initially approved the site plan

**3.17.07 Permit Fee**

The fee established by the Township Board by Annual Fee Ordinance shall accompany the application.

**3.17.08 Commencement and Completion**

- A. Upon issuance of a permit, the applicant shall commence and diligently pursue the activity described in the application and upon failure to commence construction, the permit shall expire twelve (12) months from the date of issuance. Thereafter, an additional permit shall be required and obtained.
- B. The exterior structure (eg ,of, conventional siding, windows, etc.) shall be completed within eighteen (18) months of issuance of the permit.
- C. The interior of residential premises shall be completed and an occupancy permit inspection requested within two (2) years from date of issuance of the land use permit.

**3.17.09 Adoption of State Building Codes**

The provisions of .....

- A. The state building code (as amended),
  - B. The state plumbing code (as amended),
  - C. The state electrical code (as amended), and
  - D. The state mechanical code (as amended)
- .....are adopted by reference.

**3.18.00 PRIVATE PONDS or LAGOONS**

3.18.01 Private ponds or lagoons for fish, ducks, lovestock water, irrigation water, fire protection, domicile recreation, manure storage, or created for the purposes of obtaining fill dirt for on-site construction purposes shall be permitted subject to the provisions

below upon the application for and approval of a pond permit by the Township Zoning Administrator.

3.18.02 Pond permit application shall contain:

- A. The names and addresses of the owner(s) and occupants of the property,
- B. The legal description of the property,
- C. The proposed purpose and use of the pond or lagoon, and
- D. A site plan drawn to scale suitable to demonstrate compliance with applicable regulations.

3.18.03 The obtaining of a DNR permit shall not relieve a person from also complying with the requirements of this ordinance.

3.18.04 All ponds constructed shall comply with the following regulations:

- A. The excavated material remaining on-site shall be leveled over the area around the pond or the property site.
- B. Excavated earth material created by construction of a pond shall be used to the maximum extent feasible for on-site purposes. However, excess excavated earth materials not feasible for use on-site may be removed or sold.
- C. All of the areas around the pond shall be seeded with an adaptable grass.
- D. All ponds shall be constructed so as to prevent sewage or run-off by barnyards, etc.

from

draining into the pond.

E. If the pond is intended for swimming, the area shall be free of all underwater obstacles

such as sudden drop offs or deep holes, trees, stumps, brush, wire, or fence.

F. No pond shall be constructed any closer than fifty (50) feet from a septic disposal field, nor any closer than thirty (30) feet from all property lines.

G. The pond shall not be placed in the front yard setback.

3.18.05 A permit fee as established by the Minden Township Annual Fee Ordinance shall accompany the application for the pond permit.

### **3.19.00 SECTION LINES**

No building shall be erected within ninety (90) feet of any section boundary line, it being the intent of this section to keep sixty-six (66) feet clear for future road purposes and a setback of ninety (90) feet from the center of any road.

### **3.20.00 SIGNS**

Outdoor advertising signs shall be permitted, subject to the following restrictions:

3.20.01 In Residential (R), Manufactured Home Communities or Subdivisions (MHS) or Agricultural-Residential (A-R) not more than one (1) sign of not larger than nine (9) square feet in area. However, where the road frontage exceeds two hundred twenty (220) feet, then a single sign may be up to thirty-five (35) feet in area.

3.20.02 Commercial or Industrial property may utilize up to two (2) signs, each of which shall not be larger than thirty-five (35) square feet of total area on each side.

3.20.03 Signs of larger total size or quantity than designated may be allowed only when specifically approved by the Township Board following recommendation of the Planning Commission after a public hearing as a Special Land Use upon a finding of compatibility with the neighborhood.

3.20.04 Outdoor advertising signs shall not be placed nearer any highway, street or road than the line of the public right-of-way and such sign shall not obscure traffic vision or

create a hazard to the public safety. Signs affixed to any building shall not project more than three (3) feet therefrom.

**3.20.05 Any illuminated sign or display:**

- A. Shall be of low enough light intensity that it will not interfere with the vision of persons on highways, streets or roads nor be an annoyance to neighbors.
- B. If rotating or blinking, shall not be on from one (1) hour after sunset to one (1) hour before sunrise.

**3.20.06 Temporary announcement sign(s) may be installed in any district if the sign:**

- A. Is not more than thirty-five (35) sq. ft. in sign area.
- B. Is installed for not more than six (6) months in a twelve (12) month period.
- C. Is removed within fourteen (14) days after the announced event occurs.
- D. Complies with all setback requirements.
- E. Is installed with the property owner's permission.
- F. Announces a specific event (eg. election, picnic, real estate sale, etc.).

**3.21.00 STORAGE YARDS**

No land or premises shall be used as a storage yard as herein defined except by approval of the Planning Commission as provided in Article VII of this Ordinance. Unless specifically indicated otherwise, storage yards need not be paved.

**3.22.00 SUBDIVISIONS**

Unless provided otherwise in this ordinance, all lands situated in recorded plats or subdivisions shall be subject to the following restrictions, conditions and limitations, notwithstanding that the restrictions, conditions, and limitations of the zoning district where they are situated may differ from the following:

**3.22.01 Yards**

- A. Front Yards  
Twenty-five percent (25%) of the lot with a minimum of twenty-five (25) feet from the front lot line.
- B. Side Yards  
If a lot is one hundred (100) feet or more in width, then at least ten (10) feet on either side and if less than one hundred (100) feet in width, then twenty percent (20%) of the width with a minimum of five (5) feet on each side.
- C. Rear Yards:  
Ten (10) feet in depth. The depth of rear yard abutting upon a street shall not be less than the depth of a front yard required for a building of the same size and kind on the adjoining lot fronting such rear street.

**3.22.02 Plat Act**

The Land Divion Act (1967 PA 288), as amended, is hereby adopted by reference.

**3.23.00 SWIMMING POOLS**

**3.23.01 Permits, general**

- A. This section applies to all permanent in-ground pools and permanent above-ground pools.
- B. A land use permit shall be required for those utilizing electrical service or requiring more than three (3) feet of excavation.
- C. A Site Plan is required for the installation of all pools that require permits.
- D. Inflatable pools and temporary pools are excluded, however if such pool remains up after October 31, a permit will be required from Zoning Administrator.

### **3.23.02 Permits, Building**

An application for a land use permit to erect a swimming pool shall include the name of the owner; location of the pool; a plot plan showing the location of adjacent buildings, fencing, gates and public utilities.

### **3.23.03 Setback and Safety Provisions**

- A. All swimming pools shall be located in the rear or side yard, not less than five (5) feet from the rear and side lot lines.
- B. All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the National Electrical Code.
- C. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the re-location thereof before a permit shall be issued.
- D. No portion of a swimming pool or associated structure shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use.

### **3.24.00 TEMPORARY DWELLINGS**

No person may erect or occupy a temporary (ie. substandard) dwelling on any lot except as hereinafter provided:

- 3.24.01 The Zoning Administrator may, as a condition of the land use permit, authorize temporary use of a building, including a basement home, which does not comply with the area requirements of its district as a temporary dwelling for a period of not more than twelve (12) months if construction of a permanent dwelling is actually under way and in active progress during occupancy of such temporary dwelling. Three (3) consecutive additional six (6) month periods of occupancy may be granted at the discretion of the Administrator upon documented evidence of significant progress on construction schedule. Any extensions thereafter may only be issued by the Board of Appeals.
- 3.24.02 In the event that any person shall reside in any such temporary dwelling for a period of more than thirty (30) months and has had extensions granted by the Zoning Administrator for the additional periods, the Zoning Administrator, the Planning Commission, the Board of Appeals, any delegated official or any interested party may proceed to have such extended use abated as a nuisance, or may enforce this Ordinance by other means herein provided.
- 3.24.03 The Zoning Administrator may permit the use of a house trailer or mobile home as a temporary accessory dwelling to a permanent dwelling for a period not to exceed six (6) months.
- 3.24.04 No more than one temporary structure or mobile home may be used and occupied as such accessory dwelling and then only if the occupants of such trailer have access to and the unlimited use of sanitary facilities of the permanent dwelling.
- 3.24.05 The use of tents as a temporary dwelling for up to ninety (90) days per year, in connection with recreational activities may be permitted upon application to the Zoning Administrator showing that the necessary and proper health, sanitation, plumbing and fresh water facilities are provided.
- 3.24.06 One (1) travel trailer, or motor home at each dwelling brought by visitors for traveling purposes may be occupied and allowed for sixty (60) days if the visitors occupying said trailer use the sanitary facilities of the dwelling of the property owner or occupants there visiting, or make other suitable provisions for sanitary facilities.

### **3.25.00 TRANSITION ZONING**

### **3.25.01 Lots in two districts**

Where a district boundary line as established in this Ordinance or as shown on the Zoning Map divides a lot which was in single ownership and of record at the time of this Ordinance, the use thereon and the other district requirements applying to the least restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot. The use so extended shall be deemed to be conforming.

### **3.25.02 Lots in Commercial or Industrial Districts Adjacent to a Residential Zone**

Where a lot in a Commercial or Industrial district abuts a lot in a Residential district there shall be provided along such abutting lines a yard equal in width or depth to that required in the residential district.

### **3.25.03 Front Yard Transition**

Where the frontage on one (1) side of a street between two (2) intersecting streets is zoned partly as residential and partly as commercial or industrial, the front yard depth in the commercial or industrial district shall be equal to the required front depth of the residential district.

### **3.25.04 Corner Lot Transition**

On every corner lot in residential subdivisions created after the enactment of this ordinance, there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street.

### **3.25.05 Garage Entrances**

No public or private garage for more than five (5) motor vehicles shall have an entrance or exit for motor vehicles within forty (40) feet of a residential district.

### **3.25.06 Parking Lots and Driveways Abutting Agricultural-Residential Zones**

Whenever a parking lot or a driveway to a parking lot is hereafter established in other than a agricultural-residential district so as to abut the side or rear line of a lot in a agricultural-residential district a solid masonry wall, or a substantial view obstructing fence, berm, or foliage of not less than three (3) feet high and not more than eight (8) feet high, shall be constructed and maintained along said side or rear lot line up to, but not beyond, the setback building line. In addition, in all use districts, the lighting, including any permitted illuminated sign, on any parking lot or driveway shall be arranged so that there will be no annoying glare directed or reflected toward residential buildings or agricultural-residential districts.

## **3.26.00 TRANSMISSION OR DISTRIBUTION LINES**

3.26.01 All electric transmission or distribution lines, which shall include any electric utility transmission or distribution lines, whether underground or overhead, and related facilities, shall at all times remain in compliance with Electric Transmission Line Certification Act (PA 30 of 1995).

3.26.02 All electric transmission or distribution lines in any zoning district that are not subject to the exclusive control and certification requirements of the Michigan Public Service Commission under the Electric Transmission Line Certification Act (PA 30 of 1995) shall require a special land use permit approved by the Township Board after recommendation by the Planning Commission following a public hearing.

3.26.03 An application for a special land use permit for transmission or distribution lines shall contain all of the following:

A. The planned date for beginning construction.



- B. A detailed description of the proposed transmission or distribution line, its route, expected configuration and use, and the anticipated maximum and minimum voltage.
  - C. A detailed drawing of dwelling setbacks, with the minimum allowable setback for a transmission or distribution line being two hundred (200) feet from any dwelling.
  - D. A description and evaluation of one or more alternate transmission or distribution line routes and a statement of why the proposed route was selected.
  - E. If the Zoning Ordinance prohibits or regulates the location or development of any portion of a proposed route, a description of the location and manner in which that zoning ordinance prohibits or regulates the location or construction of the proposed route.
  - F. The estimated overall cost of the proposed transmission or distribution line.
  - G. Information supporting the need for the proposed transmission or distribution line, including identification of known future wholesale users of the proposed transmission or distribution line.
  - H. Estimated quantifiable and nonquantifiable public benefits of the proposed transmission or distribution line.
  - I. Estimated private benefits of the proposed transmission or distribution line to the applicant or any legal entity that is affiliated with the applicant.
  - J. Information addressing potential effects of the proposed transmission or distribution line on public health and safety.
  - K. A detailed description of troubleshooting guidelines and methods for handling damage to the transmission or distribution lines or system (i.e. wires down or storm damage).
  - L. A summary of all comments received at any public meetings and the applicant's response to those questions.
  - M. Information indicating that the proposed transmission or distribution line will comply with all applicable local, state, and federal environmental standards, laws, and rules.
  - N. Proof of liability insurance prior to the start of construction for all contractors and subcontractors that are to be part of the project.
  - O. Other information reasonably required by the Township Planning Commission and Township Board.
  - P. A meeting shall be set with the Planning Commission to review the application for completeness prior to scheduling the public hearing on the matter
- 3.26.04 The transmission line fee shall be set on a per mile basis by the Minden Township annual fee ordinance.
- 3.26.05 The special land use permit application shall be accompanied by the required fee as set by the Minden Township annual fee ordinance.

### **3.27.00 WIRELESS COMMUNICATION TOWERS**

#### **3.27.01 Authorization**

Changing technology in the field of communications has resulted in a reliance upon more versatile convenient forms of communication. Businesses, individuals and government have all developed a strong dependence upon the ability to quickly contact others. The use of radios and cellular phones have proven themselves over and over again in emergency situations.

### 3.27.02 Qualifying Conditions

- A) The following site and developmental requirements shall apply:
- 1) A minimum site of two (2) acres and one hundred twenty five (125') feet of road frontage.
  - 2) The base of the tower and wire cable supports shall be fenced with a minimum five (5) foot high fence topped with barbed wire.
- B) **Special Performance Standards:**
- 1) The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Township Engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall incur all cost associated with Township Engineering review.
  - 2) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty (30) feet.
  - 3) Accessory structures shall not exceed six hundred (600) square feet of gross building area.
  - 4) All buffer yard requirements within the zoning ordinance shall be met.
  - 5) The plans of the tower construction shall be certified by a registered structural engineer.
  - 6) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
  - 7) All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
  - 8) Communication towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a state recognized public or private airport or ½ mile radius of a helipad.
  - 9) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located. In no case shall a tower or antenna be located within thirty (30) feet of a property line.
  - 10) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
  - 11) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
  - 12) Towers with antenna shall be designed to withstand a uniform wind loading as prescribed in the building code.
  - 13) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eighty one (81') feet above the ground at all points, unless buried underground.
  - 14) Towers shall be located so that they do not interfere with reception in nearby residential areas.
  - 15) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant.
  - 16) Minimum spacing between tower locations shall be two thousand (2,000) feet.

- 17) Height of the tower shall not exceed one hundred and seventy five (175) feet from grade within a residential district, two hundred (200) feet from grade with a Business district, and three hundred (300') feet from grade within a Manufacturing and Ag- Res district.
- 18) Towers shall not be artificially lighted except as required by the Federal Aviation Administration.
- 19) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- 20) There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- 21) The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- 22) Structures shall be subject to any state and federal regulations concerning nonionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the Special Use approval will be subject to revocation by the Township Planning Commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- 23) There shall be no employees located on the site on a permanent basis to service or maintain the antenna or tower. Occasional or temporary repair and service activities are excluded from this restriction.
- 24) The tower shall be removed by the property owner or lessee within six (6) months of being abandoned.

### 3.27.03 Co-location

#### A) Statement of Policy

It is the policy of the Township to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for attached wireless communication facility purposes, consistent with the statement of purpose and intent, set forth in Paragraph A of this section. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the Township that all users should colocate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in paragraph A of this section. If a provider fails or refuses to permit colocation on a facility owned or otherwise controlled by it where colocation is feasible. The result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

#### B) Feasibility of Co-location

Co-location shall be deemed to be "feasible" for purposes of this section where all of the following are met;

- 1) Wireless communication provider entity under consideration for colocation will undertake to pay market rent or other market compensation for colocation.
- 2) The site on which colocation is being considered, taking into consideration reasonable modification of replacement of a facility, is able to provide structural support.
- 3) The colocation being considered is technologically reasonable. eg., the colocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- 4) The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the Township.

**C) Requirements for Co-location**

- 1) Special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.
- 2) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate colocation.
- 3) The policy of the community is for colocation. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible colocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect and subject to removal as a not conforming structure.
- 4) If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible colocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Township, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for new wireless communication support structures within the Township for a period of five years from the date of the failure or refusal to permit the colocation. Such a party may seek a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

**D) Incentive**

Review of an application for colocation, and review of an application for a permit for use of a facility permitted under paragraph C above, shall be expedited by the Township.

**3.27.04 Removal**

- A) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
  - 1) The facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.
  - 2) Six (6) months after new technology is available at reasonable cost as determined by the municipal legislative body, which permits the operation of the communication system without the requirement of the support structure, or with a support structure, which is lower and/or less incompatible with the area.
- B) The situations in which removal of a facility is required, may be applied and limited to portions of a facility.
- C) Upon the occurrence of one (1) or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.
- D) If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.
- E) The person who had used the facility shall immediately notify the Township Clerk in writing if and as soon as use of a facility ceases.

**3.27.05 Effect Of Approval**

- A) Subject to the following paragraph, final approval under this section shall be effective for a period of six (6) months,
- B) If Construction of a Wireless Communication Facility is commenced within two thousand (2,000) feet of the land on which a facility has been approved, but on which Construction has not been commenced during the one (1) year period of effectiveness, the approval for the facility that has not been commenced shall be void thirty (30) days following notice from the Township of the commencement of the other facility unless the applicant granted approval of the facility which has not been commenced demonstrates that it would not be feasible for it to collocate on the facility that has been newly commenced

**3.28.00 UNSIGHTLY VENTURES**

**3.28.01 Barriers required**

Permitted ventures, including landfills, dumps, junkyards and unsightly industrial uses, shall be concealed from the view of the passing public.

3.28.02 The concealing barrier shall be at least eight (8) feet in height above normal property grade level.

3.28.03 The barrier may be a thickly planted green strip of at least fifteen (15) feet in width, an earthen berm, it may be a solid fence or a combination of the three. If a fence, it shall be well maintained and painted one solid color as approved by the Township Board.

**3.29.00 UNUSED AUTOMOBILES AND VEHICLES**

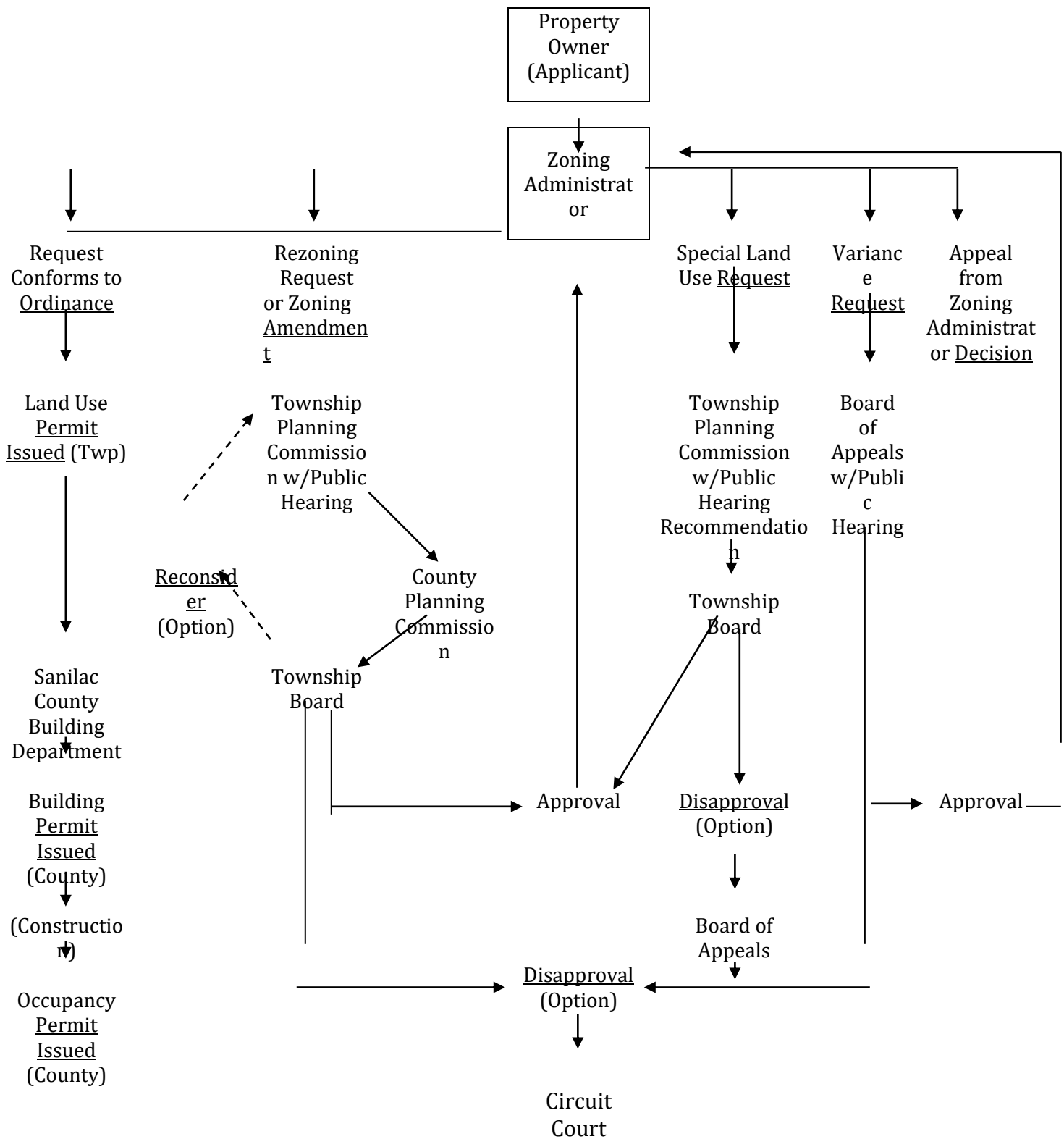
- 3.29.01 More than two (2) non-functional road vehicles may not be stored, dismantled or accumulated on any outdoor premises. Automobiles or other vehicles that do not bear a current state license plate shall be presumed to be non-functional.
- 3.29.02 If more than two (2) non-functional, unused or dismantled automobiles, trucks or other self-propelled vehicles not otherwise permitted or exempted are stored outside for a period of forty-five (45) days consecutively, the owner shall comply with the provisions of Section 3.09.00 (Junkyards and Salvage Yards) and 8.01.00 (Special Land Uses), or shall remove said vehicles on request of the Zoning Administrator.
- 3.29.03 Non-functional or dismantled automobiles, trucks, vans, trailers or other vehicles shall not be used for purposes (housing livestock, storage, etc.) other than that originally intended.
- 3.29.04 Agricultural related off-road equipment and functional, roadworthy agriculture related road vehicles primarily used (at least annually) for transportation of agricultural product but temporarily parked and/or used for storage of feed, seed, fertilizer or herbicides are exempt from the provisions of this section.

### **3.30.00 WATER SUPPLY AND SEWAGE DISPOSAL**

A land use permit shall be contingent upon the approval of the water supply and sewage disposal systems by Sanilac County's Department of Health, or other appropriate official government authority.

**ARTICLE IV  
ADMINISTRATION**

4.00.00 The administration processing of applications specified in Articles V, VI, VII and VIII generally follow the chart shown below.



**Diagram 4-1 Administrative Processing**

ARTICLE V  
**ADMINISTRATION AND FEES**

**5.00.00 ZONING ADMINISTRATION**

The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator. He/she shall be appointed by the Minden Township Board upon the recommendation of the Planning Commission for such term and subject to such conditions and at such compensation as the Township Board shall determine as reasonable.

**5.00.01 The Township Zoning Administrator shall:**

- A. Process applications for land use permits and review related site plans (See Article III).
- B. Issue permits when requirements are complete and standards are met.
- C. Inspect parcels of land for which permits are requested.
- D. Send written notification of any violation of this Ordinance to the owner(s) and tenants(s) of the property at issue.
- E. Initiate stop-work orders on violating construction project(s).
- F. At a minimum, provide quarterly reports and copies of notices of violation, land use permits and site plans to the Township Board on matters of land use.
- G. Testify at any legal proceedings regarding this Ordinance.
- H. Issue and enforce civil Notices of Violation (Citations for infractions).

5.00.02 The Zoning Administrator shall not make changes in this Ordinance, or vary its terms, in carrying out his/her duties.

5.00.03 The Township may appoint a Deputy Zoning Administrator empowered to perform all or only specific duties of the Zoning Administrator.

5.00.04 In the absence of the Zoning Administrator and Deputy Zoning Administrator (if one has been appointed and authorized), the Township Supervisor, or a designated member of the Planning Commission shall have the authority and power to process applications for land use permits and to issue such permits, if the application meets ordinance requirements.

**5.01.00 FEES**

The Minden Township Board shall, by annual fee ordinance, set all fees concerned with administration and enforcement of this Ordinance.



ARTICLE VI  
PLANNING COMMISSION

**6.01.00 CREATION OF PLANNING COMMISSION**

Pursuant to the provisions of Michigan Zoning Enabling Act (MZEA) P.A. 110 of 2006 as amended and the Michigan Planning Enabling Act (MPEA) P.A. 33 of 2008 as amended Minden Township hereby creates the Minden Township Planning Commission

**6.02.00 PURPOSE**

The purpose of the Minden Township Planning Commission shall be to make, adopt, extend, add to or otherwise amend, and to carry out plans for the unincorporated portions of the Township and, as provided in the Michigan Zoning Enabling Act (MZEA) P.A. 110 of 2006 as amended and the Michigan Planning Enabling Act (MPEA) P.A. 33 of 2008 as amended, to promote public health, safety and general welfare; to encourage the use of resources in accordance with their character and adaptability; to avoid the overcrowding of land by buildings or people; to lessen congestion on public roads and streets; to facilitate provision for a system of transportation, sewage disposal, safe and adequate water supply, recreation and other public improvements; and to consider the character of each township and its suitability for particular uses judged in terms of such factors as the trend in land and population development. The Planning Commission shall also assume the responsibilities of a zoning board as provided by the Michigan Zoning Enabling Act (MZEA) P.A. 110 of 2006 as amended, and the Minden Township Zoning ordinance.

**6.03.00 MEMBERSHIP**

**6.03.01 Five member panel**

The Minden Township Planning Commission shall consist of five (5) members who are representative of the major interests in the township.

**6.03.02 Ex Officio member**

One member of the Board of Trustees (other than the Supervisor) shall serve, *ex officio*, on the Planning commission.

**6.03.03 Appointment**

All members shall be appointed by the supervisor with the approval of the Township Board.

**6.03.04 Removal**

The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

**6.03.05 Term of office**

The term of each member shall be for 3 years, except that of the members first appointed, one (1) shall serve for one (1) year, two (2) for two (2) years and two (2) for three (3) years.

**6.03.06 Successor in office**

A successor shall be appointed not more than one (1) month after the term of the preceding commission member has expired.

**6.03.07 Vacancies in office**

All vacancies for unexpired terms shall be filled for the remainder of such term.

## **6.04.00 COMPENSATION**

Members of the Planning Commission may be compensated for their services as provided by the Township Board in the annual fee ordinance.

## **6.05.00 DUTIES OF THE PLANNING COMMISSION**

### **6.05.01 Planning and zoning**

As provided in the purposes clause, the Planning Commission shall, in its advisory capacity, make, adopt, extend, add to or otherwise amend, and carry out plans for the unincorporated portions of the township and assume the administrative responsibilities of the Minden Township Zoning Board.

#### **A) Basic plan**

The Planning Commission shall make and adopt a basic plan as a guide for the development of unincorporated portions of the township or any district thereof. The basic plan shall include:

- 1) Maps, plats, charts and descriptive, explanatory and other related matter and shall show the Planning Commission's recommendations for the physical development of the unincorporated area of the Township.
- 2) Those of the following subjects which reasonably can be considered as pertinent to the future development of the township:
  - a) A land use plan and program, in part consisting of a classification and allocation of land for agriculture, residence, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forest, wild life refuges and other uses and purposes.
  - b) The general location, character and extent of streets, roads, highways, railroads, bridges, waterways and water front developments; flood prevention works, drainage, sanitary sewers and water supply systems, works for preventing pollution and works for maintaining water levels; and public utilities and structures.
  - c) Recommendations as to the general character, extent and layout for the redevelopment or rehabilitation of blighted districts and slum areas; and the removal, relocation, widening, narrowing, vacating, abandonment, changes or use or extension of ways, grounds, open spaces, buildings, utilities or other facilities.
  - d) Recommendations for implementing any of its proposals.

#### **B) Consultation**

The Planning Commission shall consult, in respect to its planning, with representatives of adjacent townships; with the county Planning Commission, if any; with any representatives of incorporated municipalities within the township; and with the regional planning commission, if any.

#### **C) Resources**

The Planning Commission may make use of expert advice and information which may be furnished by appropriate federal, state, county, and municipal officials, departments, and agencies having information, maps, and data pertinent to township planning.

#### **D) Hearing on master plan**

- 1) Before the adoption of the plan or any part, amendment, extension, or addition to the plan, the Planning Commission shall hold at least one (1) public hearing thereon.

- 2) Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the Township, not less than fifteen (15) days before the hearing date.

**E) Adoption of master plan**

- 1) The Planning Commission by majority vote of its membership may adopt the basic plan as a whole by a single resolution, or may by successive resolutions adopt successive parts of the plan, the parts corresponding with major geographical sections or divisions of the Township or with functional subdivisions of the subject matter of the basic plan, and may adopt any amendment or extension thereof or addition thereto as herein provided.
- 2) Following the adoption of the basic plan or any part thereof, the Planning Commission shall transmit a copy of the plan to the Township Board and to the County Planning Commission for approval.

**6.05.02 Procedure**

**A) Officers**

- 1) The Planning Commission shall elect a chairperson, vice-chairperson, and secretary from its members and shall create and fill other offices or committees as it considers advisable.
- 2) The term of each officer shall be one (1) year.

**B) Advisory Committees**

The Planning Commission may appoint advisory committees outside of its membership.

**C) Meetings**

1) *Regular meetings*

The planning commission shall hold not less than four (4) regular meetings each year, and by resolution shall determine the time and place of the meetings.

2) *Special meetings*

A special meeting may be called by:

- a) 2 members upon written request to the secretary
- b) By the chairperson, or
- c) Pursuant to requests under the zoning ordinance

The secretary shall send written notice of a special meeting to commission members not less than 48 hours in advance of the meeting.

3) *Open Meetings*

a) The business which the Planning Commission may perform shall be conducted at a public meeting of the planning commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

b) Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

### **6.05.03 Planning personnel, contracts and expenses**

The Township Board, upon recommendation of the Planning Commission, may

- a) Employ a planning director or other planning personnel,
- b) Contract for the services of planning and other technicians, and
- c) Pay or authorize the payment of expenses within the funds budgeted and provided for planning purposes.

### **6.05.04 Rules, records and reports**

The Planning Commission shall:

- a) Adopt rules for the transaction of business,
- b) Keep a public record of its resolutions, transactions, findings, and determinations,
- c) Make an annual written report to the township board concerning its operations and the status of planning activities, including recommendations regarding actions by the township board related to planning and development. A writing prepared, owned, used, in the possession of, or retained by the Planning Commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

### **6.05.05 Travel compensation**

The Planning Commission may make and administer regulations relative to compensation for the travel of its members and employees when engaged in the performance of activities authorized by the Township Planning Commission, including attendance at conferences and meetings.

### **6.05.06 Annual budget**

The Planning Commission shall prepare a detailed budget and submit same to the Township Board for approval or disapproval.

## **6.06.00 FUNDING**

### **6.06.01 Appropriation and grant match**

The Township Board may annually appropriate and make available funds for carrying out the purposes and functions permitted under this act, and may match township funds with federal, state, county or other local government or private grants.

### **6.06.02 Grants**

The Township Board may accept and use gifts and grants for Planning Commission purposes. Money so accepted shall be deposited with the Township Treasurer in a special nonreverting Planning Commission fund for expenditure by the Planning Commission for the purpose designated by the donor. The Township Treasurer shall draw warrants against the special nonreverting fund only upon vouchers signed by the chairman and secretary of the Planning Commission and upon orders drawn by the Township Clerk.

### **6.06.03 Limitation on expenditures**

The expenditures of the Planning Commission, exclusive of gifts and grants, shall be within the amounts appropriated by the Township Board.

ARTICLE VII  
**BOARD OF ZONING APPEALS**

**7.00.00 CREATION**

There is hereby created a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided by Act 110 of the Public Acts of 2006, as amended, and by the provisions of this Ordinance, to the end that the objectives of this Ordinance are observed, public safety, health, morals and general welfare secured and substantial justice done.

**7.01.00 MEMBERSHIP**

**7.01.01 Three Members**

The Board of Appeals shall consist of three (3) members:

- A. The Chairman of the Township Planning Commission;
- B. A member of the Township Board; and
- C. One person appointed by the Township Board from among the electors residing in the township.

**7.01.02 Exclusion of Township Officers and Employees**

No elected officer of the township, nor any employee or contractor thereof, shall serve as a member or as an employee of the Board of Appeals, with the exception of the Township Board member.

**7.01.03 Qualifications**

The members shall be representative of the population distribution and the various interests present in the Township.

**7.01.04 Officers**

The member of the Board of Appeals who has been appointed by the Township Board from the electors at large shall serve as chairperson. The Board of Appeals shall elect from its membership a secretary or such other officers or committees deemed necessary. However, the Township Board Member may not serve as chairperson of the Board of Appeals.

**7.01.05 Removal**

Members of the Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after a public hearing. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

**7.01.06 Alternate members**

- A) The township board may appoint not more than 2 alternate members from among the electors residing in the Township to the zoning board of appeals to serve for the same term as regular members.
- B) An alternate member may be called to serve in the place of a regular member of the zoning board of appeals in the absence of a regular member when:
  - 1) A regular member is absent from or will be unable to attend a meeting of the zoning board of appeals.
  - 2) An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.
- C) The alternate member has the same voting rights as a regular member of the zoning board of appeals and shall serve in the case until a final decision is made.

## **7.02.00 TERMS OF MEMBERS AND OFFICERS**

### **7.02.01 Three Year Terms**

The members shall be appointed for a term of three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively, and the period stated in the resolution appointing them.

### **7.02.02 Staggered Terms**

When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms.

### **7.02.03 Succession**

A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for un-expired terms shall be filled for the remainder of the term.

### **7.02.04 Compensation**

The total amount allowed the Board of Zoning Appeals in any one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which shall be appropriated annually in advance by the Township Board.

## **7.03.00 JURISDICTION**

7.03.01 The Board of Appeals shall not alter or amend the Zoning District Map and Classifications or the provisions of this ordinance. The Board of Appeals:

- A. Shall maintain a separate taped or stenographic record and issue written opinions on all actions taken,
- B. Shall hear and decide appeals where it is alleged by the appellant that:
  1. There is error in any requirement relative to issuance or refusal to issue a land use compliance permit by the Building Inspector or Zoning Administrator, or
  2. The Township Board erred in allowing or disallowing a special land use request.
- C. May permit modification of off-street parking and off-street loading requirements only insofar as area and number of spaces are concerned and where it can be clearly demonstrated that no useful purpose would be served or that land requirement cannot be obtained.
- D. May permit variances to the area, height, and setback requirements where practical difficulties exist because of topography or where there are exceptional circumstances that would deprive the owner of substantial rights enjoyed by other property owners in the same zone and vicinity provided such rights are of conforming nature.
- E. May vary or modify any of its rules or provisions relating to the construction or structural changes in, equipment or alteration of buildings or structures or the use of land only where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the ordinance.
- F. Shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the presentation of records and other evidence pertaining to matters being considered.

## **7.04.00 MEETINGS AND HEARINGS**

### **7.04.01 Meetings**

- A. All meetings shall be posted in compliance with the Open Meetings Act (1976 PA 267).
- B. The chairperson of the Board of Appeals, or any two (2) board members may call a meeting for election of officers, to act on questions in administration or interpretation of the zoning ordinance and to act on such other matters as outlined by this Ordinance or 2006 Public Act 210 as amended (MCLA 125.3101).
- C. The Board of Appeals shall not conduct business unless at least two (2) members of the Board are present.
- D. Public notice of a hearing on any appeal or other hearing held shall be published at least once in a newspaper in general circulation within the Township not less than fifteen (15) days before the hearing.
- E. Written notice by personal delivery or by first class mail at least fifteen (15) days in advance to all property owners reflected by the current tax roles as owning property located within three hundred (300) feet of any point of the property on which the appeal is based.
- F. The notice shall contain a brief description of the location of the property, the basis of the appeal and the time and place where the hearing will be conducted.
- G. The premises under consideration shall be posted at least fifteen (15) days before the hearing.

## **7.05.00 HEARINGS BY BOARD OF ZONING APPEALS**

The Board of Appeals shall hold public hearings at the call of the Chairperson and as often as required to hear appeals made from decisions of the Zoning Administrator and Township Board or requests for variances as set forth in this ordinance in Article 8.

## **7.06.00 APPEALS**

7.06.01 An appeal may be taken to the Board of Appeals by:

- A. Any person seeking clarification or interpretation of this Ordinance, or
- B. Any person seeking or opposing a special land use as provided for by this Ordinance, or
- C. Any person affected by a decision of the Building Inspector or Zoning Administrator pursuant to or in conjunction with a compliance, building permit, or land removal and filling permit, or
- D. Any person seeking a variance.

7.06.02 All appeals shall be submitted in writing to the Township Clerk and accompanied by a non-refundable filing fee set by Township Board Annual Fee Ordinance if such appeal is filed within sixty (60) days of the Township Board decision.

7.06.03 Upon receipt of a proper application, the Board of Appeals shall set a reasonable time and place for a hearing on the appeal and give proper notice thereof to the public and all affected parties, and render a decision without unreasonable delay.

7.06.04 Appeals made from a determination of the Building Inspector or Zoning Administrator shall be made within thirty (30) days following such determination. Appeals from any other determination shall be made within sixty (60) days of such determination.

7.06.05 The Board of Appeals may grant a "variance" from the strict interpretation of this ordinance when such variance is deemed necessary for the preservation of a substantial property right belonging to other property in the same district, when it finds unique circumstances or hardship controlling and when the granting of such a variance will not be materially detrimental to the public welfare and not injurious to the property or improvements in the vicinity or district in which the property of the applicant is located. The Board of Appeals shall follow the preliminary procedures outlined in Article 8.

#### **7.07.00 EXERCISING AUTHORITY**

7.07.01 In exercising the authority granted to it by this Ordinance, the Board of Appeals may reverse or affirm wholly or partly or modify requirements appealed from and may make such determination and attach such conditions as need to be made.

7.07.02 The Board of Appeals shall reduce its findings of fact to writing which determination shall:

- A. Comply with the constitution and laws of this state,
- B. Recite the procedure followed,
- C. Recite sufficient competent material and substantial evidence in its support, and
- D. Represent the reasonable exercise of discretion.

7.07.03 An approval determination made by the Board of Appeals shall become null and void one (1) year after being filed with the Township Clerk if a building permit has not been issued and construction is not being actively pursued or if other applicable action has not been taken by the applicant. Determinations once voided shall become the subject of a new appeal, and an application subject to all the requirements of the original application, including a new filing fee, must be resubmitted.

7.07.04 No appeal rejected by the Board of Appeals may be resubmitted unless it can be demonstrated that new evidence bearing on the matter can be presented within a period of six (6) months following such rejection.

#### **7.08.00 GUIDELINES AND FACTORS**

As with hearings for Special Land Use permits requiring the recommendation of the Planning Commission and approval of the Township Board, the Board of Appeals shall be guided by the same considerations as for other appeals and by Article VIII and the Sections thereof, and considerations such as outlined by Section 10.03.00 of this Ordinance.

#### **7.09.00 DELIBERATION**

After hearing all persons concerned with a particular appeal, the Board of Appeals may immediately grant or deny the request or it may table the appeal for a further hearing or investigation. Whenever the Board of Appeals does not give an immediate decision or postpones the hearing until a later date, the decision of the Board of Appeals shall be communicated to all interested persons who request the same in writing.

#### **7.10.00 DECISION FINAL**

The decision of the Board of Appeals may be appealed to Circuit Court, whose decision shall be final. The Board of Appeals shall keep a record of the proceedings on all appeals to establish the Board's compliance with:

- A) Constitution and laws of this State,
- B) Appropriate procedure,
- C) Requirement of competent material and substantial evidence,
- D) Requirement of reasonable exercise of discretion.



ARTICLE VIII  
**GENERAL EXCEPTIONS AND RESTRICTIONS**

**8.00.00 PRE-EXISTING NON-CONFORMING USES (MCL 125.3101)**

**8.00.01 Non-Conforming Uses-Buildings and Structures**

A. Prior Lawful Use

The lawful use of any land, buildings or structures existing on the date of enactment of this Ordinance may be continued at the option of the owner thereof, although such use does not conform with the provisions of this Ordinance.

B. Discontinuance of Non-Conforming Uses

If the non-conforming use of any parcel of land, building or structure is discontinued or abandoned through vacancy, lack of operation or otherwise for a continuous period of six (6) months, then any further use thereof shall conform to the provisions of this Ordinance.

C. Completion of Non-Conforming Buildings and Structures

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, if construction has been diligently pursued within ten (10) days of the passage of this Zoning Ordinance and a land use permit application has been filed with the Zoning Administrator within thirty (30) days following the effective date of this Ordinance.

D. Structural Alterations

Structural alterations made in a non-conforming building shall not during its life exceed sixty percent (60%) of the assessed value, nor shall the building be enlarged unless the use therein is changed to a conforming use. However, a non-conforming building damaged by fire, explosion, tornado, earthquake or similar uncontrollable cause to an extent of not more than fifty percent (50%) of its value may be repaired or rebuilt within one (1) year of the date of such damage, but not thereafter.

E. Extension of Non-Conforming Uses

Extension of any non-conforming use within a building, or in adding to any building, for the purpose of extending a non-conforming use shall be permitted only upon variance approval of the Board of Appeals after a public hearing.

**8.01.00 SPECIAL LAND USES (MCL 125.3501, et. seq.)**

**8.01.01 Types of Special Land Uses**

Activities which require the review and recommendation of the Township Planning Commission and approval of the Township Board before the use is permissible, are of two (2) types:

A. Specifically defined

Those uses which are unique because of peculiar characteristics which require detailed study in order to determine their effect on the public welfare and possible injury to adjacent property, even though the use will take place in an otherwise appropriately zoned district. Examples include, but not all inclusive, are listed herein.

B. Similar and compatible

Those uses which, though not of a type designated for the specific district, are not incompatible with the prevalent activities or local environment of the district in which the activity is to be located.

- C. Authority of Planning Commission  
The Planning Commission shall have the authority to review and make recommendation to the Township Board for Special Land Use permits subject to such conditions of design, operation, safeguards and any other conditions and/or contingencies it deems necessary. The Township Board shall have the authority to deny, approve or approve with conditions the special land use permits
- D. Special Land Use Application and Fee  
Application for a Special Land Use permit shall be made to the Planning Commission and shall be accompanied by the fee established by the Minden Township Board as established in the annual fee ordinance.
- E. Application Contents  
An application for a Special Land Use permit shall at a minimum contain:
  1. A statement that the applicant(s) is the owner(s) of the property involved, or is acting in the owner's behalf with the owner's written authorization.
  2. A legal description of the property involved.
  3. A site plan (An accurate dimensioned diagram of said property showing the existing and proposed location of all buildings, structures, water sources and waste disposal provisions.)
  4. The design and uses of the existing and proposed buildings and structures.
  5. A statement in support of the request for the Special Land Use permit regarding the special land use guidelines and performance standards including, but not limited to, noise, dust, traffic, wind and water erosion (Sec. 3.16.00) and any other relevant factors.

#### **8.02.00 SPECIAL LAND USE HEARING AND NOTICE**

Upon receipt of an application for a Special Land Use, not less than fifteen (15) days before the hearing, a notice that such a request has been received shall be:

8.02.01 **Published** in a newspaper which circulates in the Township, and

8.02.02 **Sent by mail or delivered** personally as follows:

- A. To the owners of property for which the Special Land Use is being considered, and
- B. To all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and
- C. To the occupants of all structures within three hundred (300) feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

**8.02.03 The notice shall:**

- A. Describe the nature of the Special Land Use request.
- B. Identify and describe the property which is the subject of the Special Land Use request.
- C. State when and where the Special Land Use request will be considered at a public hearing.
- D. Indicate when and where written comments will be received concerning the request.

**8.03.00 SPECIAL LAND USE GUIDELINES**

The Planning Commission and Township Board shall review the particular circumstances and facts of the proposed Special Land Use in the light of the provisions of this Ordinance, health and sanitation, common welfare and safety of the community, as well as the uses prevalent in the area. Factors which must be considered in relation to the intent and purpose of this Ordinance include: conditions of operation, design, site plan, equipment employed, performance standards, size and frequency of use, traffic volume and flow, population density, parking processes, environmental impact, drainage, service to and compatibility with the community, as well as the considerations outlined by Section 10.03.00 of this ordinance.

**8.03.01 Examples of Special Land Uses** (Requiring approval of the Township Board following the recommendation of the Planning Commission after a public hearing) In addition to other uses requiring Township Board approval as set forth in this Ordinance, the following uses shall also require approval of the Township Board following recommendation of the Planning Commission after a public hearing:

- A. Reservoirs, catch basins, aeration fields, ponds used for the dumping of wastes or any other materials or liquids from any commercial or industrial enterprise.
- B. Fertilizer manufacturing plants
- C. Slaughter houses, transfer stations and rendering plants
- D. Private airports or aircraft launching and landing pads or strips
- E. Fish smoking or curing
- F. Food processing plants
- G. Migrant workers camps
- H. Sewage disposal plants
- I. Campgrounds
- J. Marinas or boat liveries
- K. Junkyards
- L. Open storage yards whether principal or accessory use
- M. Gravel pits, sand mines, and open pit mines
- N. Landfills
- O. Theaters
- P. Stadiums or arenas
- Q. Adult book stores.
- R. Recreational facilities (e.g.. pool halls, video arcades, games of skill, etc.) utilizing 4 or more devices
- S. Open air markets (eg flea markets, farmer's markets, etc.)
- T. Amusement and recreation parks
- U. Churches
- V. Public and community assembly buildings
- W. Schools
- X. Hospitals, clinics and sanitariums

- Y. Cemeteries
- Z. Funeral homes and mortuaries
- AA Hotels and motels
- BB. Tourist homes and rooming houses
- CC. New and used automobile sales lots
- DD. Motor vehicle repair shops
- EE. Multi-family dwellings
- FF. Boat sales, repair or storage yards
- GG. Playgrounds
- HH. Gasoline and oil service stations
- II. Combustible or toxic material storage structure or yards
- JJ. Bars and taverns
- KK. Certain roadside stands
- LL. Open air assembly of more than 300 people
- MM. Salvage Yards
- NN. Golf Courses
- OO. Hunt Clubs
- PP. Hunting Reserves
- QQ. Peat Mining
- RR. Wind Energy Facilities
- SS. Transmission Lines
- TT. Other uses which are not inconsistent with the provisions of this ordinance.

**8.03.02 Recommendation of Planning Commission and Decision of Township Board**

The Planning Commission at a public hearing shall review and make a recommendation to the Township Board for approval, approval with conditions, or denial of a request for a Special Land Use. The Township Board shall issue a statement describing the decision, the basis for the decision and any conditions imposed on the Special Land Use.

**8.03.03 Appeal from Decision of Township Board**

The allowance or disallowance of a specific land use request by the Township Board may be appealed to the Zoning Board of Appeals by the applicant or a Minden Township land owner if such appeal is filed within sixty (60) days of the Township Board decision.

**8.04.00 VARIANCES**

The Zoning Board of Appeals is exclusively responsible for determination of Variances as outlined by Article VII and defined by Section 7.06.00.

THE CRUCIAL POINTS OF A VARIANCE ARE UNDUE HARDSHIP AND UNIQUE CIRCUMSTANCES APPLIED TO PROPERTY. A VARIANCE IS NOT JUSTIFIED UNLESS THESE ELEMENTS ARE PRESENT IN THE CASE. A VARIANCE MAY BE AUTHORIZED ONLY BY THE ZONING BOARD OF APPEALS. THE DECISION OF THE BOARD OF APPEALS SHALL BE FINAL.

**8.04.01 Variance Application and Fee**

Application for a Variance shall be made to the Zoning Board of Appeals and shall be accompanied by the fee established in the annual fee ordinance by the Minden Township Board.

**8.04.02 Variance Application Contents**

An application for a Variance shall at a minimum contain:

- A. A **statement** that the applicant(s) is the owner(s) of the property involved, or is acting in the owner's behalf with the owner's written authorization.
- B. A **legal description** of the property involved.

- C. A **Site Plan** (An accurate diagram of said property showing the existing and proposed location of all buildings and structures thereon.)
- D. A **statement** regarding design and uses of the existing and proposed buildings and structures.
- E. A **statement** in support of the request for the Variance regarding the specifics of the "undue hardship" or "unique circumstances" which are the basis of the request.

#### 8.04.03 Variance Hearing and Notice

Upon receipt of an application for a variance, not less than fifteen (15) days before the hearing:

- A) Notice that such a request has been received shall be published in a newspaper which circulates in the Township, and
- B) Notice shall be sent by mail or delivered personally as follows:
  1. To the owners of property for which the Variance is being considered, and
  2. To all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and
  - 3) To the occupants of all structures within three hundred (300) feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
- C) Notice shall be posted on the property not less than fifteen (15) days before public hearing.

#### 8.04.04 Variance Application Notice Contents

The notice shall:

- A. **Identify** and describe the property which is the subject of the Variance request.
- B. **Describe** the nature of the Variance request.
- C. State the **date, time and place** that the Variance request will be considered at a public hearing.
- D. Indicate the date, time and place that **written comments** will be received concerning the request.

#### 8.04.05 Decision of Board of Appeals

The Zoning Board of Appeals may by written opinion, approve, approve with conditions or deny a request for a Variance under the provisions of Section 7.07.00.

ARTICLE IX  
**ESTABLISHMENT OF DISTRICTS**

**9.00.00 TYPES**

The unincorporated area of the Township of Minden, Sanilac County, Michigan, is hereby divided into five (5) use districts designated as follows

Ag-Res	Agricultural-Residential.....	9.03.00
Com	Commercial.....	9.04.00
Ind	Industrial.....	9.05.00
Ag-Ind	Agricultural-Industrial.....	9.06.00
WEOL	Wind Energy Overlay District.....	9.07.00

**9.01.00 MAPS**

The boundaries of districts or zones are shown upon the Official Zoning Map (located in the Township office) and maps attached hereto and designated as zoning maps. Zoning maps and all notations, references and other information appearing thereon are hereby declared to be a part of this ordinance and of the same force and effect as if the Districts were fully set forth by metes and bounds description.

**9.02.00 BOUNDARIES OF ZONED DISTRICTS**

For determination of the boundaries of districts shown on the zoning maps, the following rules shall apply:

- 9.02.01 Where boundaries are indicated as following, or approximately following, street and alley lines, the street or alley center lines shall be construed to be the boundaries.
- 9.02.02 Where boundaries are indicated as following, or approximately following, lot lines or plot lines, the lot line or plot line shall be construed to be the boundary.
- 9.02.03 The Board of Appeals shall, upon application or upon its own motion determine the location of boundaries in cases where uncertainty exists.

**9.03.00 AGRICULTURAL - RESIDENTIAL DISTRICTS (Ag-Res)**

The following shall apply to all agricultural-residential districts:

**9.03.01 Use Types**

A) Permitted Uses

- 1) Single and two (2) family dwellings and buildings accessory thereto, but excluding tents, recreational vehicles, trailer coaches, and motor homes, except as otherwise provided in this Ordinance.
- 2) Family-owned and operated roadside stands and greenhouses, provided, however, that at least thirty (30%) percent of the produce and all other articles and goods sold therefrom shall be grown upon the owner's premises. Otherwise no transaction of any nature shall occur at such roadside stand or greenhouse without first obtaining the approval of the Township Board following recommendation of the Planning Commission after a public hearing. Signs shall conform to the provisions of Section 3.20.00 of this Ordinance.
- 3) Agricultural enterprises and related structures.  
 However, raising or harboring livestock shall be limited as follows:
  - a) Livestock shall be kept a minimum of fifty (50) feet from any dwelling or well and a minimum of twenty-five (25) feet from any septic field.
  - b) Livestock shall be restrained and confined in a structural corral, pasture or pen with adequate shelter.
  - c) Adequate provisions for manure control and disposal must be included.
  - d) Small animals shall be adequately and humanely housed and cared for.
- 4) Manufactured and/or Mobile Homes as provided for in Article III.

- 5) A home occupation in a dwelling used by the applicant as a residence. Such use shall not involve any extension or modification of the dwelling which will alter its outward appearance as a dwelling, Signs to advertise such use shall be in compliance with Section 3.20.00. No more than one-third (1/3) of the total dwelling area shall be used for such purposes. It must comply with parking provisions of Section 3.15.00. (No parking on the roadway or in front of the dwelling).
  - 6) Sand or gravel pits of a non-commercial nature (ie, mining of not more than ten thousand (10,000) cubic yards of gravel per year).
  - 7) Accessory buildings, structures and uses customarily incidental to the above permitted and approved uses, for example, garages, properly fenced swimming pools, satellite antennae, etc.
  - 8) Parking and/or occupying not more than one (1) recreational vehicle on undeveloped parcels of ten (10) acres or more for not more than ninety (90) out of three hundred sixty five (365) days with permit obtained from the Township Zoning Administrator. Permit fees shall be set by the Minden Township Annual Fee Ordinance.
- B) Special Land Use (requiring approval of Township Board following recommendation of Planning Commission after a public hearing)
- The following uses may be permitted, providing such use is not noxious, dangerous nor offensive by reason of odor, dust, smoke, gas, noise, fumes, flames or vibration or does not otherwise become a public nuisance, except for normal odors, dust, noise and vibrations necessary in agricultural activities.
- 1) Multi-family dwellings, meaning dwellings with more than two (2) basic living units (eg apartment house).
  - 2) Churches, schools, libraries, cemeteries, hospitals, clinics, sanitariums, convalescent homes, funeral homes, nursing homes, community fallout shelters, tourist homes, rooming houses, boarding homes and similar uses.
  - 3) Roadside stands and greenhouses which do not comply with permitted use requirements. Signs shall conform to the provisions of Section 3.20.00 of this Ordinance.
  - 4) Parks and grounds for outdoor activities and recreation, airplane landing strips and helicopter landing pads, provided that all such activities be non-commercial and not operated for profit.
  - 5) Commercial communications towers (i.e. cable, cellular, microwave relay, etc.) Private radio (i.e. "ham" towers) are specifically exempted.
  - 6) Sand or gravel pits of a commercial nature (i.e. mining of ten thousand (10,000) or more cubic yards of sand or gravel per year.)
  - 7) Juvenile detention facilities as defined in Article II or foster homes, provided that not more than ten (10) children reside and/or receive services on the premises and five (5) or more of the juveniles receiving services are residents of Sanilac County and placed in the facility at the direction of the Sanilac County Probate Court.
  - 8) Foster Care facilities for more than six (6) patients/clients.

- 9) Campgrounds, recreation parks and playgrounds.
    - a) Day recreation parks may include picnic, biking, hiking and wilderness areas, but may not include any commercial and/or competitive enterprises.
    - b) Playgrounds shall primarily focus on children's activities.
    - c) Primitive or RV Campgrounds may be allowed if premises:
      - i) Encompass at least forty (40) acres,
      - ii) Are isolated from residential areas by noise and view obstructions and green belt setback of not less than two hundred (200) ft.
      - iii) Are not closer than five hundred (500) ft to the nearest residence.
      - iv) Comply with such other conditions as may be appropriate.
  - 10) Small businesses engaging in the repair, finishing, alteration, hunting facilities, competitive or practice racetracks, assembling, fabrication or storage of goods and motor vehicle repair shops any of which shall be specifically subject to the following conditions:
    - a) Small businesses (not more than twelve (12) full and part-time employees at one time) engaging in the repair, finishing, alteration, assembling, fabrication or storage of goods.
    - b) Such small business Special Land Uses (SLUs) shall be subject to at least the following conditions:
      - i) Limited to a specified time period not to exceed five (5) years.
      - ii) The business shall be incidental and accessory to the primary use of the premises as the landowners' residence.
      - iii) The business shall not employ more than twelve (12) full and/or part-time employees on the premises at any one time.
      - iv) A detailed site plan including setbacks, greenbelts, driveways, parking, storage, fences and view obstructions, signs, floor area, designated route to premises from nearest paved road, etc.
      - v) The use shall not alter the appearance of the premises from the agricultural-residential nature of the area.
      - vi) Defined hours of operation.
      - vii) Whether entire operation must be inside buildings and the nature, type and extent of operations (if any are allowed) which may be conducted outside of buildings.
      - ix) Such other conditions as may assure minimal affect on adjacent property owners.
      - x) Performance Bond may be required.
  - 11) Dog kennels which, for a period of more than fifty six (56) days, house more than eight (8) dogs or puppies owned or licensed by the owner and/or occupant of the premises; or three (3) or more dogs not owned or licensed by the owner and/or resident of the premises.
  - 12) Hunting preserves
    - i) Encompass at least eighty (80) acres,
    - ii) Are isolated from residences by noise and view obstructions,
    - iii) Are not less than four hundred (400) feet to the nearest residence,
    - iv) Comply with such other conditions as may be appropriate.
  - 13) Golf Courses
  - 14) Adult and/or juvenile detention or correction facilities other than as provided in Section B.
  - 15) Peat Mining
- C) Prohibited Uses



None at this time

#### 9.03.02 Minimum Lot Area

Minimum lot area shall be one and a half (1-1/2) acres (65,340 square feet), with a minimum frontage and a minimum width, on at least ninety percent (90%) of the length of the property, of one hundred fifty (150) feet in all newly created parcels of land.

#### 9.03.03 Corner Lot

On any corner lot no walls, fences, hedges, or accessory structures or shrubbery shall rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

#### 9.03.04 Driveways and Parking

Driveways shall be not less than ten (10) feet wide. No driveway common to two (2) residences shall be permitted unless an easement providing for same is recorded with the Sanilac County Register of Deeds. Off-street vehicle parking, access and egress shall be provided as shown in Section 3.15.00.

#### 9.03.05 Yards

Every structure hereafter erected, altered or moved upon a premises shall be provided with yards having no less than the following minimum sizes:

- A) Front Yards Ninety feet (90) in depth from the center of the road, street or highway except Federal or State Highways provided, however, that where there are existing dwellings within fifteen (15) feet of the sidelines of the parcel of land on which the dwelling is located having lesser front yards, the front yard may be reduced to the average of front yards of such dwellings by not less than seventy five (75) feet in depth, and provided further, that no dwelling located on a Federal or State Highway may have a front yard less than one hundred ten (110) feet in depth.
- B) Side Yards Fifteen (15) feet in width on each side.
- C) Rear Yards Fifteen (15) feet in depth.

#### 9.03.06 Fences and Buffers

Fences, walls or shrubs of more than three (3) feet in height above the road grade level are not allowed on any interior lot within ten (10) feet of the front property line, where they will interfere with traffic visibility from a driveway.

#### 9.03.07 Signs

Signs shall be in conformance with Section 3.20.00

#### 9.03.08 Building Floor Area

- A) Building Floor Area
  - 1) Every mobile home hereafter placed upon premises in this district shall contain not less than six hundred (600) square feet of living space floor area.
  - 2) Every site-built or modular one (1) family, one (1) story dwelling hereafter erected, constructed, altered or moved upon premises shall contain not less than seven hundred (700) square feet of living space floor area.
  - 3) Every one (1) family multi-level dwelling, hereafter erected, constructed, altered or moved upon a premises shall contain not less than seven hundred (700) square feet of total floor living area. Two (2) story single family dwelling shall have not less than seven hundred (700) square feet of ground level floor living area.
  - 4) Two (2) family dwellings, if permitted, shall contain a minimum combined floor living area of one thousand four hundred twenty (1400) square feet.

- 5) Multiple family dwellings, if permitted, shall contain not less than five hundred (500) square feet of floor area per unit.
- 6) In no case shall minimum living area include floor space in an attached garage, open porch or other attached structure.

#### 9.03.09 Accessory Buildings

- A) In any agricultural-residential district no accessory structure shall be erected closer to the side lot line than the permitted distance for the dwelling, unless said garage shall be completely to the rear of the dwelling in which event the building may be erected five (5) feet from the side lot line.
- B) Accessory buildings housing livestock (e.g. cattle, horses, poultry, pigs, sheep, goats, etc.) shall be located not less than one hundred fifty (150) feet from the nearest neighboring dwelling.

### 9.04.00 COMMERCIAL DISTRICTS

#### 9.04.01 Use Types

- 1) In Commercial Districts (C) land may be used and buildings or structures be erected, altered or moved on and used, in whole or in part, for any one (1) or more of the following specified uses, except as otherwise provided in this Ordinance.
- 2) All uses shall comply with the performance standards listed in Section 3.16.00 of this Ordinance.
- 3) Other than dwellings, structures shall comply with all State and Local Commercial Building Codes.

#### A) Permitted Uses

- 1) All generally recognized and accepted retail stores or outlets and their accessory service or production departments.
- 2) Business and professional offices.
- 3) Personal services direct to the customer (eg. barber shop, beauty parlors, shoe and tire repair shops, laundry and dry cleaning shops).
- 4) Greenhouses and nurseries.
- 5) Parking lots.
- 6) Public, semi-public and public utility buildings not including storage yards.
- 7) Community clubs, fraternal organizations and similar civic social organizations.
- 8) Outdoor advertising signs in conformance with Section 3.20.00 of this Ordinance.
- 9) Tourist homes, rooming houses, hotels, motels and bed and breakfast facilities.
- 10) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformers (stations and substations), gas regulator stations, water and sewage stations and public utility electric power generating facilities.
- 11) Public services direct to the customer (eg. banks, eating establishments, drive in bars, dress making shops, photographic shops, undertaking establishments).

#### B) Special Land Uses

Commercial District Special Land Use permits shall include the condition that the regular course of business shall not emit any noise, vibration, smoke, dust, fumes, odors, light, glare or other nuisance factors beyond the boundaries of the property on which it is located. Nor shall it be injurious to the surrounding neighborhood or contrary to the public interest or the spirit of this Ordinance. The following Special Land Uses may be conditionally permitted upon approval of the Township Board after recommendation from the Township Planning Commission after a public hearing:

- 1) Small businesses engaging in the repair, finishing, alteration, assembling, fabrication or inside storage of goods.
- 2) Gasoline and motor vehicle service stations.
- 3) New and used car lots.

- 4) Motor vehicle repair shops.
- 5) Processing or sale of used motor vehicle parts from within a building. [However, if parts are sold from vehicles on the premises (known as "junk" cars, trucks, tractors or trailers), the owner and/or operator shall conform to the industrial requirements of a junkyard, as herein defined, obtain appropriate zoning and license(s) from the State of Michigan and the Township of Minden.
- 6) Recreation and amusement facilities (eg pool halls, video arcades, games of skill, etc.) utilizing four (4) or more devices.
- 7) Food processing plants.
- 8) Campgrounds.
- 9) Open storage yards, whether principal or accessory use.
- 10) Theaters, stadiums or arenas.
- 11) Adult book stores.
- 12) Open air markets (eg flea markets, farmers' markets, etc.).
- 13) Amusement and recreation parks and playgrounds.
- 14) Churches, schools, public and community assembly buildings.
- 15) Hospitals, clinics and sanitariums.
- 16) Funeral homes, mortuaries and cemeteries.
- 17) Multi-family dwellings.
- 18) Bars and taverns (sale of alcohol beverages for consumption on premises) and package liquor or party stores (sale of alcohol beverages for consumption off premises).
- 19) Combustible or toxic material storage structures or yards.
- 20) Private airports, aircraft landing pads or strips.
- 21) Signs not in compliance with 3.20.00.
- 22) Livestock yards and slaughter houses.
- 23) Adult and/or juvenile detention or correction facilities.
- 24) Foster care facilities for more than six (6) patients/clients
- 25) A commercial or business use of land or buildings which is compatible with the location but is not specifically mentioned in this Section may be conditionally permitted upon approval of the Township Board after recommendation from the Township Planning Commission after a public hearing.

C) Prohibited Uses

None at this time

**9.04.02 Minimum Lot Area**

Minimum lot area shall be two (2) acres (87,120 square feet) with a minimum frontage and minimum width, on at least ninety percent (90%) of the length of the property, of two hundred (200) feet in all newly created parcels of property.

**9.04.03 Corner Lot**

On any corner lot, no view obstructing fences, hedges or accessory structures or shrubbery shall rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

**9.04.04 Driveways and Parking**

Driveways shall be not less than ten (10) feet wide and at least three (3) feet from the lot line. Off-street vehicle parking, access and egress shall be provided as shown in Sec. 3.15.00.

**9.04.05 Yards**

Every building hereafter erected, altered or moved upon commercial premises shall be provided with yards having no less than the following minimum sizes:

- A) Front Yards: Ninety (90) feet in depth from the center of any highway, except Federal and State Highways, provided however, that where there are existing buildings or structures within fifteen (15) feet of the sidelines of a parcel of land on which the building or structure is located having lesser front yards the front yard may be reduced to the average of front yards of such buildings or structures but not less than twenty five (25) feet in depth and provided further, that no building or structure located on a Federal or State Highway shall have a front yard less than one hundred ten (110) feet in depth.
- B) Side Yards: Ten (10) feet in width on each side, provided however that no side yard shall be required when the walls of a building abutting on an interior lot are wholly without windows or other openings; provided further that any building erected, adjacent to a parcel or lot occupied by or zoned for dwellings shall provide a side yard abutting such parcel not less than fifteen (15) feet in width.
- C) Rear Yards: Ten (10) feet in depth, provided however that no rear yard shall be required when the walls of a building abutting on an interior lot are wholly without windows or other openings; provided further that any building erected, adjacent to a parcel or lot occupied by or zoned for dwellings shall provide a rear yard abutting such parcel not less than fifteen (15) feet in width.

**9.04.06 Fences and Buffers**

- A) All outdoor storage areas shall be completely screened by a view obstructing fence, earthen berm, coniferous natural growth (or combination thereof) surrounding the storage area, including the line abutting a public thoroughfare. The screen shall be at least six (6) feet above the road grade level. Exceptions may be made by the Township Board following recommendation of the Township Planning Commission after public hearing (for Special Land Uses) and the Board of Appeals (for variances).
- B) Occupants and owners shall also comply with Section 3.27.00 (Unsightly Ventures) of this Ordinance.

**9.04.07 Signs**

Signs shall be in conformance with Section 3.20.00.

**9.04.08 Building Floor Area and Height**

- A) Building Floor Area Buildings with less than seven hundred (700) square feet of floor area shall not be used for residential purposes.
- B) Building Height No buildings shall hereby be erected, altered or moved upon any premises exceeding a height of forty (40) feet or two and one-half (2 ½ ) stories unless a variance for a greater height is approved by the Board of Appeals after a public hearing and taking into consideration the fire fighting capabilities in the Township or available neighboring fire fighting facilities. However, silos and other agricultural structures located on a farm shall be exempt from this provision.

**9.04.09 Accessory Buildings**

Accessory buildings which are located on a corner lot shall not be placed closer than five (5) feet to a rear or side lot line.

**9.05.00 INDUSTRIAL DISTRICTS (I)**

**9.05.01 Use Types**

- A) Land may be used or buildings or other structures may be erected, altered or moved on and used, in whole or in part, for any of the following specified uses, except as otherwise provided in this Ordinance.
- B) All uses in Industrial District shall:

- 1) File environmental impact statements fully describing the nature and extent of industrial operation and providing for remediation of potential industrial damage to the ecological balance.
  - 2) Comply with the Performance Standards listed in Sec. 3.16.00 of this Ordinance.
  - 3) Comply with all state and local industrial building codes.
- C) Permitted Uses  
 Industrial uses which comply with each and all of the following requirements shall be permitted to operate in industrial districts without need for special approval:
- 1) Any lawful use of land or buildings may be carried on and any building erected and used for any purpose whatsoever, (except dwellings, motels, and similar buildings designed for sleeping or living purposes) provided however, that no such use shall produce or cause the emission of obnoxious, offensive, unhealthful or harmful odors, dust, smoke, fumes, glare, noise, vibration or radiation beyond the boundaries of the parcel of land on which located, provided further that no such use shall be carried on under conditions that are dangerous or hazardous to surrounding properties, and provided further that all substances causing dust or fumes, or attractive to rodents or insects and stored in the open to be kept in closed containers.
  - 2) Agricultural uses may be carried on in this district.
  - 3) An industrial purpose which does not comply with Section 1 above and which does not emit any noise vibration, smoke, dust, fumes, odors, light, glare or other nuisance factors beyond the boundaries of the property on which the use is located.
- D) Special Land Use (Requiring Township Board approval following a recommendation of the Township Planning Commission after a public hearing of the Township Planning Commission)
- 1) An industrial use which, in the normal course of business, may emit any noise, vibration, smoke, dust, fumes, odors, light, glare or other nuisance factors beyond the boundaries of the property on which the use is located, but only so long as the Performance Standards (as outlined in Sec. 3.16.00) are not exceeded.
  - 2) Reservoirs, catch basins, sewage disposal plants, aeration fields, or ponds used for the treatment of waste, chemicals, liquids or any other materials from any other commercial or industrial enterprise.
  - 3) Signs not conforming with Section 3.20.00.
  - 4) Fertilizer and other chemical plants.
  - 5) Slaughter houses, transfer stations and rendering plants.
  - 6) Airports or aircraft launching and landing strips.
  - 7) Open storage yards as principal or accessory use.
  - 8) Truck terminals.
  - 9) Gravel pits, sand mines and open pit mines, of a commercial or non-commercial nature.
  - 10) Combustible or toxic material storage structures or yards.
  - 11) Food processing plants.
  - 12) Junkyards.
  - 13) Schools, churches, public and community assembly buildings.
  - 14) Peat Mining
  - 15) A commercial use or business use that is permitted in Commercial Districts.
  - 16) Camps, adult and/or juvenile detention or correction facilities.
  - 17) Foster care facilities for more than six (6) patients/clients.
  - 18) An industrial use of land or buildings not specifically mentioned in this Section, but compatible with the location, may be conditionally permitted upon approval of the Township Board after recommendation of the Township Planning Commission after a public hearing.

E) Prohibited Uses

- 1) Landfills and Dumps which do not comply with Township, County and Regional Solid Waste Management Plans.
- 2) Toxic waste disposal facilities.

9.05.02 **Minimum Lot Area**

A lot site or parcel of land shall consist of not less than two (2) acres with a minimum frontage and minimum width, on at least ninety percent (90%) of the length of the property, of not less than two hundred (200) feet.

9.05.03 **Corner Lot**

On any corner lot no walls, fences, hedges or accessory structures or shrubbery shall rise over three (3) feet in height above the level or the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

9.05.04 **Driveways and Parking**

A) Driveways Driveways shall be not less than twenty (20) feet wide and located at least three (3) feet from the side lot lines.

B) Parking Off-street vehicle parking and loading space shall comply with the provisions of Section

3.15.00 of this Ordinance. However, vehicle parking shall be allowed only in side or rear yards of industrial zoned property, with only limited visitor parking in front.

C) Fire Lane A clear and unobstructed drive, at least fourteen (14) feet wide, for the access of fire-fighting equipment shall be kept open in side or rear yards.

9.05.05 **Yards**

Every building hereafter erected, altered or moved upon industrial zoned premises shall be provided with yards having no less than the following minimum sizes:

A) Front Yard Two hundred (200) feet in depth from the center of Federal and State Highways and one hundred (100) feet in depth from the center of all other highways.

B) Side Yard One hundred (100) feet in all cases.

C) Rear Yard Forty (40) feet in depth and such yard shall be kept open and unobstructed for access of fire fighting equipment.

9.05.06 **Fences and Buffers**

Where industrial property abuts any other use district, the abutting unoccupied open space (ie side yard) shall:

A) Be at least seventy-five (75) feet in width; and

B) Shall include a green strip at least fifteen (15) feet wide; and

C) Shall include an isolation barrier at least eight (8) feet high. Such barrier shall consist of coniferous trees and may be supplemented by additional ornamental foliage. The total height of the isolation barrier may include a berm. If the barrier consists of ornamental foliage or coniferous trees, the Zoning Administrator may allow nursery stock which will achieve eight (8) feet in five (5) years. (See Section 3.27.00)

9.05.07 **Signs**

Signs shall be in conformance with Section 3.20.00.

9.05.08 **Building Floor Area and Height**

A) Building Floor Area Every principal structure hereafter constructed, erected, altered or moved upon industrial premises shall contain not less than two thousand (2000) square feet of ground floor area.

B) Building Height Buildings and structures shall not exceed a height of forty (40) feet or two and one-half (2 ½ ) stories except when a variance for a greater height is approved

by the Board of Appeals after a public hearing, and taking into consideration the fire fighting capabilities of the Township or neighboring fire fighting facilities.

#### 9.05.09 Accessory Buildings

Accessory buildings shall comply with all set back (yard) requirements.

### 9.06.00 AGRICULTURAL-INDUSTRIAL (AG-IND)

#### 9.06.01 Use Types

A) Land may be used or buildings or other structures may be erected, altered or moved on and used, in whole or in part, for any of the following specified uses, except as otherwise provided in this Ordinance.

B) All uses in Agricultural-Industrial District shall:

- 1) File environmental impact statements fully describing the nature and extent of industrial operation and providing for remediation of potential industrial damage to the ecological balance.
- 2) Comply with the Performance Standards listed in Sec. 3.16.00 of this Ordinance.
- 3) Comply with all state and local industrial building codes.

C) Permitted Uses

Industrial uses which comply with each and all of the following requirements shall be permitted to operate in industrial districts without need for special approval:

- 1) Any lawful use of land or buildings may be carried on and any building erected and used for any purpose whatsoever, (except dwellings, motels, and similar buildings designed for sleeping or living purposes) provided however, that no such use shall produce or cause the emission of obnoxious, offensive, unhealthful or harmful odors, dust, smoke, fumes, glare, noise, vibration or radiation beyond the boundaries of the parcel of land on which located, provided further that no such use shall be carried on under conditions that are dangerous or hazardous to surrounding properties, and provided further that all substances causing dust or fumes, or attractive to rodents or insects and stored in the open to be kept in closed containers.
- 2) Agricultural uses may be carried on in this district.
- 3) An industrial purpose which does not comply with Section 1 above and which does not emit any noise vibration, smoke, dust, fumes, odors, light, glare or other nuisance factors beyond the boundaries of the property on which the use is located.

D) Special Land Use (Requiring Township Board approval following a recommendation of the Township Planning Commission after a public hearing of the Township Planning Commission)

- 1) An industrial use which, in the normal course of business, may emit any noise vibration, smoke, dust, fumes, odors, light, glare or other nuisance factors beyond the boundaries of the property on which the use is located, but only so long as the Performance Standards (as outlined in Sec. 3.16.00) are not exceeded.
- 2) Reservoirs, catch basins, sewage disposal plants, aeration fields, or ponds used for the treatment of waste, chemicals, liquids or any other materials from any other commercial or industrial enterprise.
- 3) Signs not conforming with Section 3.20.00.
- 4) Fertilizer and other chemical plants.
- 5) Slaughter houses, transfer stations and rendering plants.
- 6) Airports or aircraft launching and landing strips.
- 7) Open storage yards as principal or accessory use.
- 8) Truck terminals.
- 9) Gravel pits, sand mines and open pit mines, of a commercial or non-commercial nature.
- 10) Combustible or toxic material storage structures or yards.

- 11) Food processing plants.
- 12) Junkyards.
- 13) Schools, churches, public and community assembly buildings.
- 14) Peat Mining
- 15) A commercial use or business use that is permitted in Commercial Districts.
- 16) Camps, adult and/or juvenile detention or correction facilities.
- 17) Foster care facilities for more than six (6) patients/clients.
- 18) An industrial use of land or buildings not specifically mentioned in this Section, but compatible with the location, may be conditionally permitted upon approval of the Township Board after recommendation of the Township Planning Commission after a public hearing.

E) Prohibited Uses

- 1) Landfills and dumps which do not comply with Township, County and Regional Solid Waste Management Plans.
- 2) Toxic waste disposal facilities.

**9.06.02 Minimum Lot Area**

A lot site or parcel of land shall consist of not less than two (2) acres with a minimum frontage and minimum width, on at least ninety percent (90%) of the length of the property, of not less than two hundred (200) feet.

**9.06.03 Corner Lot**

On any corner lot no walls, fences, hedges or accessory structures or shrubbery shall rise over three (3) feet in height above the level or the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

**9.06.04 Driveways and Parking**

A) Driveways Driveways shall be not less than twenty (20) feet wide and located at least three (3) feet from the side lot lines.

B) Parking Off-street vehicle parking and loading space shall comply with the provisions of Section

3.15.00 of this Ordinance. However, vehicle parking shall be allowed only in side or rear yards of industrial zoned property, with only limited visitor parking in front.

C) Fire Lane A clear and unobstructed drive, at least fourteen (14) feet wide, for the access of fire-fighting equipment shall be kept open in side or rear yards.

**9.06.05 Yards**

Every building hereafter erected, altered or moved upon industrial zoned premises shall be provided with yards having no less than the following minimum sizes:

A) Front Yard Two hundred (200) feet in depth from the center of Federal and State Highways and one hundred (100) feet in depth from the center of all other highways.

B) Side Yard One hundred (100) feet in all cases.

C) Rear Yard Forty (40) feet in depth and such yard shall be kept open and unobstructed for access of fire fighting equipment.

**9.06.06 Fences and Buffers**

Where industrial property abuts any other use district, the abutting unoccupied open space (ie side yard) shall:

A) Be at least seventy-five (75) feet in width; and

B) Shall include a green strip at least fifteen (15) feet wide; and

C) Shall include an isolation barrier at least eight (8) feet high. Such barrier shall consist of coniferous trees and may be supplemented by additional ornamental foliage. The total height of the isolation barrier may include a berm. If the barrier consists of ornamental



foliage or coniferous trees, the Zoning Administrator may allow nursery stock which will achieve eight (8) feet in five (5) years. (See Section 3.27.00)

#### 9.06.07 Signs

Signs shall be in conformance with Section 3.20.00.

#### 9.06.08 Building Floor Area and Height

- A) **Building Floor Area** Every principal structure hereafter constructed, erected, altered or moved upon industrial premises shall contain not less than two thousand (2000) square feet of ground floor area.
- B) **Building Height** Buildings and structures shall not exceed a height of forty (40) feet or two and one-half (2 ½ ) stories except when a variance for a greater height is approved by the Board of Appeals after a public hearing, and taking into consideration the fire fighting capabilities of the Township or neighboring fire fighting facilities.

#### 9.06.09 Accessory Buildings

Accessory buildings shall comply with all set back (yard) requirements.

### 9.07.00 WIND ENERGY OVERLAY DISTRICT (WEOL)

#### 9.07.01 Energy Facilities

The purpose and intent of this Article is to establish a process for the creation of districts within Minden Township that are suitable for the location of Wind Energy Facilities, for the review and permitting of such facilities, to protect the health, welfare, safety, and quality of life of the general public, and to ensure compatible land uses in the vicinity of the areas affected by such facilities. Wind Energy Facilities shall include any mechanical device such as a wind charger, windmill or wind turbine which is designed and used to convert wind energy into a form of useful energy for sale. Except for 9.07.06(C) Setbacks, **this Article shall not apply to:**

- A) Any wind energy facility consisting of one wind turbine;
- B) Any wind energy facility not in commercial use;
- C) Any wind energy facility consisting entirely of wind turbines with a total height that does not exceed one hundred (100) feet and nameplate capacity that does not exceed one hundred (100) kilowatts.

#### 9.07.02 Conflicting Regulations

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern. In particular, wind energy towers shall not be subject to special land use time restrictions.

#### 9.07.03 Definitions

**FAA** shall mean the Federal Aviation Administration.

**Hub Height** shall mean the distance from ground level to the center of the turbine hub or horizontal rotor shaft.

**Large Scale Facility** is the interconnection of three (3) or more wind turbine towers.

**Michigan Tall Structures Act (Act 259 of 1959)** shall govern the height of structures in proximity to airport related uses and is included as a standard in this Article by reference.

**Wind Energy Conversion Facility (WECF)** or Wind Energy Facility shall mean an electricity generating facility consisting of two or more wind turbines under common ownership or

operation control, and includes substations, Met Towers, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers. A Wind Energy Facility shall not include cables/wires, underground and/or overhead collection lines or collection line system, or overhead or underground transmission or distribution lines.

***Wind Energy Facility Site Permit*** is a permit issued upon compliance with standards of this Ordinance.

***Wind Energy Facility Site Plan Review*** is the process used to review a proposed Wind Energy Facility.

***Wind Energy Overlay Zoning Districts*** are districts created by the Minden Township Board, upon receiving a recommendation of the Planning Commission, by identifying specific areas that are appropriate for development of Wind Energy Facilities and that have specific regulations for unique uses, structures or conditions.

***Wind Turbine*** shall mean a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base and pad transformer, if any; provided that such a system shall only be a wind turbine for purposes of this Ordinance if it both has a total height greater than one hundred (100) feet and nameplate capacity of greater than one hundred (100) kilowatts.

#### **9.07.04 Development Uses, Requirements and Restrictions**

All listed non-discretionary permitted uses in the underlying zoning district of this wind energy overlay zone are permitted. All listed discretionary uses in the underlying zoning district of the overlay zone are subject to special use permit process and review. Wind powered electricity generating sources and wind farms that are granted a special use permit shall not be subject to limited time or duration restrictions which may be imposed under the Zoning Ordinance.

#### **9.07.05 Permitted Zones**

In any Wind Energy Overlay Zoning District, the Township Board shall have the power to grant a special use permit following a recommendation from the Planning Commission after a public hearing to allow a Wind Energy Facility, subject to the restrictions contained in this Ordinance. This special use permit, if denied by the Township Board, may be appealed to the Board of Zoning Appeals.

#### **9.07.06 Wind Energy Facilities**

The following criteria shall be included and/or be utilized as standards when preparing, submitting and reviewing an application for a Wind Energy Facility special use permit. A permit application and site plan can be approved only upon Planning Commission review and recommendation following a public hearing, with the final decision being made by the Township Board.

##### **A. Avian Analysis**

The applicant shall submit an avian study to assess the potential impact of proposed Wind Energy Facilities upon bird and bat species. The avian study shall at a minimum report on a literature survey for threatened and endangered species, and relevant information on critical flyways. The applicant must identify any plans for post-construction monitoring or studies. The analysis should also include an explanation of potential impacts and propose a mitigation plan, if necessary.

##### **B. Visual Appearance; Lighting; Power lines**

The applicant shall use measures to reduce the visual impact of wind turbines to the extent possible, utilizing the following:

- 1) *Tower*
  - a) Wind turbines shall be mounted on tubular, monopole towers, painted a non-reflective, non-obtrusive color.
  - b) No lattice towers are allowed.
  - c) The appearance of turbines, towers and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e., condition of exterior paint, signs, landscaping, etc).
  - d) A certified registered engineer or authorized factory representative shall certify that the construction and installation of the wind energy conversion system meets or exceeds the manufacturer's construction and installation standards.

- 2) *Structures*  
The design of the Wind Energy Facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend facility components with the natural setting and then existing environment. No bold colors will be allowed.

- 3) *Lighting*  
Wind Energy Facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

- 4) *Advertising*  
Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility. No graffiti will be allowed.

- 5) *Wires*
  - a) Overhead or underground transmission and distribution lines are required to obtain a separate special land use permit from the Township.
  - b) Underground and/or overhead collection lines or collection line systems are required to obtain a separate special land use permit from the Township.
  - c) Surface markers shall be placed to indicate the location of the wires and a map will be placed on the tower indicating same. Membership and participation in the MISS DIG Systems, Inc. of Michigan shall be required. Proof of membership shall be provided upon request.
  - d) Any new substation shall be located at a distance of no less than one thousand three hundred twenty (1,320) feet from the nearest residence, school, hospital, church or public library. A lesser setback may be approved if the intent of this Ordinance would be better served thereby. A lesser setback shall be considered only with written approval from the owner of the inhabited structure.
  - e) Underground transmission, underground distribution lines, and underground instruments of collection line systems are required to be buried at a depth of no less than eight (8) feet.

C. Setbacks, Separation and Security

The following setbacks and separation requirements shall apply to all wind turbines within a Wind Energy Facility.

- 1) *Inhabited structures:*
  - a) Each wind turbine shall be set back from the nearest dwelling, school, hospital, church, public library, or municipal limit, a distance no less than the greater of
    - (i) Two (2) times its Hub Height or
    - (ii) One thousand three hundred and twenty (1,320) feet.
  - b) A lesser setback may be permitted only with written approval from the owner of dwelling, school, hospital, church, public library within the lesser setback.
- 2) *Property line setbacks:*

Wind turbines shall only be subject to the property line setbacks provided in this overlay zone.

- a) Along the border of the Wind Energy Overlay District, there shall be a setback distance not less than two (2) times the Hub Height of the wind turbine.
- b) Wind turbines and access roads shall be located so as to minimize the disruption to agricultural activity and, therefore, the location of towers and access routes is encouraged along internal property lines
- c) Where a proposed turbine location is nearer to a non-participating intra-district property line than two (2) times the Hub Height of the wind turbine, an easement may be established on the abutting (non-participating) parcel(s).

3) *Public Roads*

Each wind turbine shall be set back from the nearest public road a distance no less than one and a half (1.5) times its hub height, determined at the nearest boundary of the underlying right-of-way for such public road.

4) *Communication and electrical lines*

Each wind turbine shall be set back from the nearest above-ground public utility transmission line a distance no less than one and a half (1.5) times its hub height, determined from the existing power line or telephone line.

5) *Tower separation*

- a) Turbine/tower separation shall be based on
  - 1) industry standards,
  - 2) manufacturer recommendation, and
  - 3) the characteristics of the particular site location.
- b) At a minimum, there shall be a separation between towers of not less than two (2) times the turbine (rotor) diameter.
- c) The Wind Energy Facility shall be designed to minimize disruption to farmland activity.
- d) Record documents (ie "*as-built*" drawings) shall be submitted to the Township by the developer/manufacturer confirming specifications for turbine/tower separation.

6) *Construction Certification*

Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the Wind Energy Site Permit and, in addition, that appropriate security will be in place to restrict unauthorized access to Wind Energy Facilities.

D. Wind Turbine/Tower Height (Total Height)

- 1) The total height of a wind turbine shall be the distance to the center of the hub of the wind turbine plus the distance to the tip of the turbine blade at its height point.
- 2) Generally, the Hub Height shall not exceed one hundred (120) meters (393.701feet) from existing grade unless modification of this maximum height is approved pursuant to this Article. The applicant shall demonstrate compliance with the Michigan Tall Structures Act (Act 259 of 1959, as amended) and FAA guidelines as part of the approval process.

E. Noise

- 1) Audible noise or the sound pressure level from the operation of the Wind Energy Facility shall not exceed forty-five (45) dBA, or the ambient sound pressure level plus five (5) dBA, which ever is greater for more than ten percent (10%) of any sixty (60) minute interval, measured at any residence, school, hospital, church or public library

existing on the date of approval of any Wind Energy Facility special use permit. The applicant shall be able to provide sound pressure level measurements from a reasonable number of sampled locations at the perimeter and in the interior of the Wind Energy Facility to demonstrate compliance with this standard.

- 2) In the event audible noise from the operation of the Wind Energy Facility contains a steady pure tone, the standards for audible noise set forth in subparagraph 1) of this subsection shall be reduced by five (5) dBA.
  - a) A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.
- 3) Ambient noise levels shall be measured at a building's exterior of potentially affected existing residences, schools, hospitals, churches and public libraries.
  - a) Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind-generated noise at the microphone.
  - b) Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operations, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.
- 4) Any noise level falling between two (2) whole decibels shall be the lower of the two.
- 5) In the event the noise levels resulting from the Wind Energy Facility exceed the criteria listed above, a waiver to said levels may be approved, provided that the following has been accomplished:
  - a) Written consent from the affected property owner(s) has been obtained stating that they are aware of the Wind Energy Facility and the noise limitations imposed by this Article, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and
  - b) If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement must be recorded in the Sanilac County Register of Deeds office that describes the benefited and burdened properties and that advises all subsequent owners of the burdened property that noise levels in excess of those otherwise permitted by the ordinance may exist on or at the burdened property.
- 6) Sound studies and reports will be prepared at the expense of the wind energy company. The study will be conducted to determine compliance with the SLU, as well as, all applicable standards and ordinances. The sound study will be conducted no less than five (5) years after completion of the project or initial sound study. Thereafter, sound studies will be conducted every five years.

F. Minimum Ground Clearance

The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than fifty (50) feet.

G. Signal Interference

- 1) No Wind Energy Facility shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.

- 2) No Wind Energy Facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the links operation.
- 3) Notwithstanding the foregoing, an approval may be issued under this Article if Applicant demonstrates an ability to remedy any interference described above with the use of signal repeaters or other proven mitigation measures.

H. Safety

- 1) All collection system wiring shall comply with all applicable safety and stray voltage standards.
- 2) Wind Turbine towers shall not be climbable on the exterior.
- 3) All access doors to wind turbine towers and electrical equipment shall be locked at all times except during servicing.
- 4) Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and Wind Energy Facility entrances.
- 5) Projects shall be designed and operated in compliance with all applicable provisions of local, state, and federal laws and regulations.
- 6) The applicant shall be responsible for maintenance of the access roads. At the landowner's discretion, the entrance of each access road from the public right of way shall be gated, with wings as appropriate, to discourage trespassers.

I. Erosion and Flooding

Any erosion or flooding of property resulting from the construction of alternative energy structures or access roads, whether in the Overlay Zone or not, is the responsibility of the developer/owner of the structures.

J. Complaint Resolution

- 1) The Wind Energy Facility Owner and/or Operator shall submit a detailed, written complaint resolution process developed by the applicant to resolve complaints from the Township Board or the Minden Township property owners or residents concerning the construction or operation of the Facility. The complaint resolution process must be approved by the Township Board as a condition of approval of the special land use permit application.
- 2) The Township Board shall appoint a three-member Complaint Resolution Committee to oversee and participate in all complaint resolution discussions or meetings between the Township property owner or resident and the Wind Energy Facility Owner and/or Operator.
- 3) The Complaint Resolution Committee shall consist of one (1) member of the Township Board, one (1) member of the Township Planning Commission, and one (1) qualified elector chosen from the community.
- 4) The Wind Energy Facility Owner and/or Operator shall provide not less than forty eight (48) hour notice to the Complaint Resolution Committee and shall provide the opportunity for the Committee to attend any and all complaint resolution discussions and meetings.
- 5) The Township Board shall be kept appraised of all complaints and shall receive a report as outlining the issue, the progress, and the resolution. Such report shall be presented monthly by the Complaint Resolution Committee.

**9.07.07 Overlay Zone**

A. Overlay Zoning District

The Wind Energy Facility Overlay Zoning District shall consist of the parcels identified in Appendix A and as depicted on the Minden Township Zoning Map.

B. Purpose, Adoption of Districts

The purpose of the Wind Energy Facility Overlay Zoning District is to regulate the placement and operation of wind energy generation equipment in the district, and to provide a procedure by which wind energy projects may be addressed by the Planning Commission and Township Board.

#### 9.07.08 Site Plan Review

- A) Wind Energy Conversion Facilities shall not be located, constructed, erected, altered, or used without first obtaining a Wind Energy Facilities Special Land Use Permit issued by the Township Board after recommendation by the Planning Commission following a public hearing pursuant to this Ordinance. An applicant proposing a Wind Energy Facility must submit the following site plan materials:
- 1) Survey of the property showing existing features such as contours, large trees, buildings, structures, roads (rights-of-way), utility easements, land use, zoning district, ownership of property, and vehicular access;
  - 2) Plan(s) showing the location of proposed turbine towers, underground and overhead wiring (including the depth of underground wiring), new drainage facilities (if any), access roads (including width), substations and accessory structures;
  - 3) A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the Township to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the Wind Energy Facility;
  - 4) Engineering data concerning construction of the tower and its base or foundation, which must be engineered and constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition to a depth of three (3) feet;
  - 5) Anticipated construction schedule;
  - 6) Description of operations, including anticipated regular and unscheduled maintenance; and
  - 7) Complaint resolution policy and procedures manual.
  - 8) MISS DIG Systems, Inc. of Michigan membership.
  - 9) Proof of liability insurance prior to the start of construction for all contractors and subcontractors that are to be part of the project.
- B) Construction Bond and permit
- 1) Applicant, construction company, or other acceptable third party shall file a construction performance bond or other agreement acceptable to the parties in an amount determined by the Township, to ensure that, in the event that the project is not completed, the project site and other affected private or governmental properties (eg. roads, ditches, bridges, etc.) will be restored to pre-construction condition.
  - 2) This bond shall be terminated upon timely completion of construction and activation of the facility.
  - 3) Any application to construct a Wind Energy Facility within a Wind Energy Overlay Zone shall require the approval of the Sanilac County Construction Department.
- C) Decommissioning Plan and Bond  
Applicant will file a decommissioning plan and agreements before approval of SLU permit; as well as, post a financial instrument approved by the Township Board for purposes of decommissioning.
- D) The applicant must also obtain a permit from the Sanilac County Road Commission and/or Michigan Department of Transportation (MDOT) for permission to connect access

roads to existing County roads and from the Sanilac County Drain Commission for any county culverts or other drainage facilities.

#### **9.07.09 Application Fee**

An applicant for a Wind Energy Facility shall remit an application fee and a fee per megawatt of nameplate capacity to the Township included with all applications in the amount specified in the annual fee ordinance. This fee is based on the cost to the Township of the review which fee may be adjusted from time to time, and shall include, but not be limited to, such costs as meeting expenses, publication and notification expenses, related attorney fees, and other costs as may be incurred by the Township during the application and review process. The applicant or developer shall also pay any expenses or costs related to the project that are incurred by the Township throughout the life of the wind energy facility, including but not limited to, attorney fees, meeting costs, and emergency services.

#### **9.07.10 Application Procedures**

A developer/operator of any Wind Energy Facility within the Wind Energy Overlay Zone shall comply with the following procedures for application for land use permit to construct alternative energy structures.

- A. Make application for special land use permit for a Wind Energy Facility to the Planning Commission as generally required by the zoning ordinance and as specifically required by this Article. The application for special land use permit for a Wind Energy Facility will be accompanied by the required fees and information as required in this Article.
- B. The Planning Commission will review the application in a public meeting which shall be published not less than fifteen (15) days prior to the meeting in the print media which covers Minden Township and by posting the same at the township hall. All other notice requirements (i.e. mailing) shall be met. A decision on the permit application shall be made by the Township Board.

#### **9.07.11 Decommissioning**

- A. The applicant shall submit a plan describing the intended disposition of the alternative energy project at the end of its useful life and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease.
- B. Any tower/turbine left unused or inoperable for over twenty four (24) months would be deemed abandoned, to be disposed of by developer/applicant.
- C. The land must be returned to its original state.
- D. Concrete bases must be removed three (3) feet below ground level with appropriate drainage and filled with like soil that was removed.
- E. The applicant will post a financial instrument, approved by the Township Board, for decommissioning. The financial instrument will be in favor of Minden Township and will contain a replenishment obligation.
- F. Within six months prior to the effective date of the performance bond or equivalent financial instrument the developer/applicant shall provide a report as to the estimated cost of decommissioning the project as of that date. The Township shall review the results and other such information as the Township may gather and shall adjust the initial amount of the bond or equivalent financial instrument accordingly. Such adjustments shall be at the sole discretion of the Township.
- G. Every two (2) years after the Effective Date of the bond or equivalent financial instrument the developer/applicant shall provide a report as to the estimated cost of decommissioning the project as of that date. The Township shall review the results and other such information as the Township may gather and shall adjust the amount of the bond or equivalent financial instrument accordingly. Such adjustments shall be at the sole discretion of the Township.



- H Should the developer/applicant fail to decommission the project following abandonment, the Township shall have the authority to decommission the project, to sell the scrap, and to use the salvage value to defray the costs of decommissioning the project.

#### 9.07.12 REMEDIES

- A. The enforcement of the Ordinance shall be the responsibility of the Minden Township Supervisor, unless otherwise specified in the ordinance or designated by the Township.
- B. An owner/operator, landowner, firm, association, corporation or representative agent of any wind energy system that is found by Minden Township, or its designee, to be in violation of the special use permit, or to be abandoned, inoperable or unsafe as defined in this Ordinance, or to have a serious adverse impact as defined in this Ordinance:
  - a. Shall provide abatement by shut down, repair, or removal of the wind energy system upon written notification from the Township Supervisor (or other Township designee)
  - b. The penalty for which shall be adopted and outlined in the Township “Annual Schedule of Salaries, Fees, & Permits”. For violations that continue after a written demand for correction by the Township, each day shall be considered a separate occurrence.
  - c. May be subject to revocation of the special use permit for excessive and continued violations.
  - d. May be required to reimburse Minden Township for cost(s) and expenses of obtaining other relief including a temporary or permanent injunction; such reimbursement may include costs and reasonable attorney fees.

#### 9.07.13 INSPECTIONS

The Township will conduct annual inspections of any and all wind energy facilities. The cost of the annual Township inspection will be reimbursed to the Township by the wind energy company’s owner/operator through an escrow fund established pursuant to a schedule of “Fees and Permits”, adjusted from time-to-time by the Township Board. The inspections will consist of but not be limited to evaluating compliance with original contract terms, compliance with improvements and updates; and evaluating compliance with the SLU.

#### **APPENDIX A**

The following parcels constitute the Wind Powered Electricity Generating Overlay District:

In Minden Township- T14N-R14E

The unincorporated areas of Sections 1, 2, 11 & 12 and all of Sections 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35 and 36.

Those lands in Sections 18, 19, 20, 30, 31, 32 and 33 that are not titled to the State of Michigan.

ARTICLE X  
AMENDMENTS

**10.00.00 INITIATION OF AMENDMENTS**

Amendments to this Ordinance may originate through:

10.00.01 The Township Board, or

10.00.02 The Township Planning Commission by resolution of the majority of their respective members, or

10.00.03 Written petitions signed by no less than sixty percent (60%) of the owners of property located in the unincorporated portion of the Township and within fifteen hundred (1500) feet of all boundaries of property to be rezoned, and filed with the Township Clerk. Such petition shall include the address of each signer and the location of his property in the Township; or

10.00.04 Written petition signed by all owners of property for which rezoning is requested.

10.00.05 Any petition requesting rezoning of individual parcels of land (by the owners) shall state the specific use or purpose for which rezoning is sought.

10.00.06 If granted, it shall be illegal to use such parcel for any purpose other than that specifically authorized; although such other use or purpose is permitted under the district regulations in which the parcel is classified, unless separate proceedings are pursued for such other use.

**10.01.00 PROCEDURE**

10.01.01 Each proposed amendment not originating with the Minden Township Planning Commission shall be referred to said Board for its consideration and recommendations.

10.01.02 The Planning Commission shall hold at least one (1) public hearing on its recommendations, as required by Section 306 of 2006 PA 210, as amended.

10.01.03 Notice of the Planning Commission hearing on an amendment shall:

A) **Contain:**

(1) A summary of the purpose of the hearing.

(2) The date, time and place of the hearing.

(3) The dates, times and places where the tentative text and maps may be examined.

B) **Be published** in a newspaper in general circulation in the Township not less than fifteen (15) days before the hearing date.

D) **Be mailed**, not less than fifteen (15) days before the hearing, to each public utility, airport or railroad that registers its name and address with the Township for the purpose of receiving the notice.

E) **Be mailed** at least fifteen (15) days before the hearing to the owner(s) of the property to be rezoned and to all owners of property and occupants of dwellings within three hundred (300) feet of the premises to be rezoned (applies only to rezoning).

F) **Be evidenced** by an affidavit of mailing to owner(s) occupants, utilities, airports and railroads filed before the hearing (applies only to rezoning).

G) **Be evidenced** by affidavit(s) of publication.

- 10.01.04 During and as a result of the zoning ordinance amendment hearing(s) the Planning Commission shall:
- A. Review the proposed amendment.
  - B. Consider and summarize comments from the public.
  - C. Consider the amendment (and changes thereto),
  - D. Submit copies of the summary, text, maps and the Planning Commission's recommendations to the Sanilac County Planning Commission and file affidavit of mailing.
  - E. Submit copies of the summary, affidavits, text, maps and the Minden Township Planning Commission's recommendations to the Township Board.
- 10.01.05 Upon receipt of the summary, text, maps, affidavits and the Planning Commission's recommendations, the Township Board:
- A. Shall wait thirty (30) days after the County Planning Commission's receipt of the amendment(s) for its recommendations. If no response is received in thirty (30) days, then the Board may proceed without the County Planning Commission's recommendations.
  - B. May hold additional hearing(s) for comments, if deemed necessary, in which case notice shall be published in a newspaper in circulation in the Township not less than fifteen (15) days before the hearing indicating date, time, place and purpose of the hearing.
  - C. Shall refer the proposed text back to the Planning Commission for a report on any suggested amendments, changes, additions or departures from the text as originally presented.
  - D. May adopt the amendment(s) by a vote of a majority of its membership, at a regular meeting (or a special meeting called for the purpose), to be effective upon publication or on any date thereafter.

#### **10.02.00 FINALITY**

Any decision made by the Planning Commission, Township Board, or the Board of Appeals pertaining to a particular parcel of land prior to the adoption of any amendment to this Ordinance shall be final and not affected by any subsequent amendment unless that parcel of land is the subject of the amendment.

#### **10.03.00 CONSIDERATION OF AMENDMENTS**

Any amendments to this ordinance (as well as permits for special land uses and variances) shall be made with reasonable consideration, among other things, to:

- A. The character of each district.
- B. Its peculiar suitability for particular purposes.
- C. Conservation of property values.
- D. General trend and character of land, building and population development.
- E. Basic plan for general trend and character of land, building and population development.
- F. Conservation of natural resources and energy.
- G. Prevention of improper uses of land.
- H. Appropriate locations and relations of various uses.
- I. Hazards to life and property.
- J. Population and traffic density.
- K. Environmental impact.
- L. County Planning Commission recommendations (if required by statute).
- M. Effect of amendment upon adjacent municipalities.

ARTICLE XI  
**ENFORCEMENT**

**11.00.00 VIOLATIONS**

Any building or structure, which is erected, altered, maintained or used, and any use of land which is begun, maintained or changed in violation of any provisions of this Ordinance is hereby declared to be a nuisance per se.

**11.01.00 PENALTIES**

11.01.01 The violation of any of the provisions of this ordinance is hereby declared a civil infraction.

11.01.02 Unless otherwise designated, an offense shall be considered as Grade A, 1st Offense.

11.01.03 Each and every day during which an illegal construction, alteration, maintenance or use continues shall be deemed a separate offense. However, correction of the violation and payment of a civil infraction citation within fourteen (14) days of issuance shall be considered a single day violation. The infraction shall be considered paid when payment is received by the Township Clerk.

11.01.04 Denial of responsibility or failure to accept responsibility for the civil infraction will result in civil prosecution.

11.01.05 Any person, firm, corporation, or other organization which violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any provision, shall be responsible for a civil infraction and daily penalties as set in the Annual Fee Ordinance.

11.01.06 The imposition of any penalties shall not exempt the offender from compliance with the provisions of this Ordinance and/or enforcement.

**11.02.00 PROSECUTION**

Prosecution as above noted may be initiated upon a complaint signed by the Zoning Administrator, Township Supervisor, any member of the Township Board or any attorney retained for this purpose by the Township Board.

**11.03.00 COURT ACTION**

The Township Board may request the Township attorney to institute collection, injunction, mandamus, abatement or any other appropriate action or proceedings to enforce the civil infraction and/or prevent, enjoin, abate, or remove any said unlawful construction, alteration, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

**11.04.00 COSTS AND ATTORNEY FEES**

The Defendant found culpable in any civil or criminal action shall be responsible for all actual court costs, attorney fees, expert witness fees and any other expenditures incurred by the Township in the prosecution of this Ordinance.

Article XII  
**SEVERANCE AND REPEALOR**

**12.00.00 SEVERANCE**

If any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**12.01.00 REPEALOR**

All other previously adopted ordinances or parts of ordinances in conflict with this Ordinance shall, to the extent of such conflict, be considered repealed at such time as this Ordinance becomes legally effective.

Article XIII  
**ADOPTION**

The provisions of this Ordinance are hereby declared to be necessary for the public welfare, health, peace, safety and morals, and shall be in effect thirty (30) days after publication, on the \_\_\_ day of \_\_\_\_\_, 2010;

Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_

Yeas: \_\_\_\_\_ Nays: \_\_\_\_\_

Absent: \_\_\_\_\_ Abstain: \_\_\_\_\_

Ordinance adopted on \_\_\_\_\_  
\_\_\_\_\_ *Terrance O'Connor, Supervisor*

\_\_\_\_\_  
*Judy Mausolf, Clerk*

**CERTIFICATION**

I, *Judy Mausolf*, Clerk of the Township of Minden, Sanilac County, Michigan, aver under oath that the statement

STATE OF MICHIGAN  
COUNTY OF SANILAC  
**TOWNSHIP OF MINDEN**  
*NOTICE OF ADOPTION*  
*Minden Township Zoning Ordinance #10-1*

A zoning ordinance regulating the development and use of land has been adopted by the Minden Township Board on the \_\_\_ day of \_\_\_\_\_, 2010, replacing the previous text and zoning map. This ordinance shall become effective on the \_\_\_ day of \_\_\_\_\_, 2010.

A copy of the ordinance may be purchased or inspected by contacting the Township Clerk or the County Clerk in the Courthouse in Sandusky during regular business hours.

Submitted by:  
*Judy Mausolf, Clerk*  
Minden Township

was published in the Minden City Herald on the \_\_\_ day of \_\_\_\_\_ 2010, within fifteen (15) days of adoption.

Dated: \_\_\_\_\_  
\_\_\_\_\_ *Judy Mausolf, Clerk*