

# Fairgrove Township Zoning Ordinance

Tuscola County, Michigan



January 2022 (Draft)

No person was ever honored for what he received. Honor has been the reward for what he gave.

– Calvin Coolidge



**Carl L. Childs**

February 2, 1949 – September 24, 2020

~ Dedication ~

It is with our sincere appreciation we dedicate this ordinance to the memory of Carl Childs and his committed and invaluable service to Fairgrove Township. As Planning Commission Chairman, Carl's patient and skilled leadership was instrumental in the creation of this document. During the upcoming years, this ordinance will guide the Township in promoting growth and recognizing the rights of property owners, while protecting our citizens' health, safety and welfare. And although Carl was unable to see this project through to final completion, his wisdom, intelligence, compassion, and understanding are woven throughout.

Fairgrove Township Board of Trustees

Keith Aeder, Supervisor  
Katie Gebhardt, Clerk  
Sarah Donovan, Treasurer  
Dennis Hadeway, Trustee  
Justin Edwards, Trustee

Board of Trustees Members emeritus

Karen Goodchild  
Michael Day  
John McQuillan

Fairgrove Township Planning Commission

Brian Pike, Chairman  
Anne Leen, Secretary  
Jeffrey Montei, Member  
Douglas Shannon, Member  
Marilyn Grzemkowski, Member  
Kreg Sherman, Member  
Justin Edwards, Ex officio Member

# Table of Contents

## Chapter 1 – Miscellaneous Provisions

Section 1.1 – Short Title .....	1-1
Section 1.2 – Purpose .....	1-1
Section 1.3 – Conflicts with other Acts, Ordinances, or Regulations .....	1-2
Section 1.4 – Severability .....	1-2
Section 1.5 – Repeal .....	1-2
Section 1.6 – Vested Rights .....	1-2
Section 1.7 – Effective Date .....	1-2

## Chapter 2 – Definitions

Section 2.1 – Rules Applying to The Definitions .....	2-1
Section 2.2 – Definitions .....	2-2

## Chapter 3 – General Requirements

Section 3.1 – Purpose of General Requirements .....	3-1
Section 3.2 – Effect of Zoning .....	3-1
Section 3.3 – Substandard Lots .....	3-1
Section 3.4 – Required Water Supply and Sanitary Sewerage Facilities .....	3-1
Section 3.5 – Intent for Non-Conforming Lots, Uses, and Structures .....	3-1
Section 3.6 – Corner Clearance .....	3-4
Section 3.7 – Accessory Buildings .....	3-4
Section 3.8 – Performance Standards .....	3-7
Section 3.9 – Use Restrictions .....	3-8
Section 3.10 – General Exceptions as to Area, Height, and Use .....	3-8
Section 3.11 – Multiple Dwelling Side Yard .....	3-8
Section 3.12 – Fences, Walls, and Hedges .....	3-8
Section 3.13 – Access through Yards .....	3-9
Section 3.14 – Projections into Yards .....	3-9
Section 3.15 – Control of Pets .....	3-9
Section 3.16 – Home Occupation .....	3-9
Section 3.17 – Dish Antennas .....	3-10
Section 3.18 – Swimming Pool and Pond Safety Requirements .....	3-10
Section 3.19 – Prohibition of Marihuana Establishments .....	3-11
Section 3.20 – Excavations or Holes .....	3-11
Section 3.21 – Substandard Dwelling Occupancy During Construction of a Dwelling .....	3-11
Section 3.22 – Temporary Use of a Recreational Vehicle as a Dwelling .....	3-12
Section 3.23 – Home Industry .....	3-13

**Chapter 4 –Zoning Districts**

Section 4.1 – Division of the Township into Zoning Districts .....4-1  
Section 4.2 – Official Zoning Map .....4-1  
Section 4.3 – Interpretation of Boundaries.....4-1  
Section 4.4 – Scope of Regulations.....4-1  
Section 4.5 – District Regulations .....4-2  
Section 4.6 – Agricultural District Regulations (A-1).....4-2  
Section 4.7 – Rural Residential District Regulations (R-1) .....4-5  
Section 4.8 – Business District Regulations (B-1).....4-6  
Section 4.9 – Manufacturing District Regulations (M-1) .....4-8  
Section 4.10 – Wind Energy Overlay District .....4-9

**Chapter 5 –Off-Street Parking**

Section 5.1 – Application of Off-Street Parking Requirements .....5-1  
Section 5.2 – Accessible Parking Requirements.....5-1  
Section 5.3 – Size of Parking Space and Circulation Areas .....5-1  
Section 5.4 – Required Number of Parking Spaces by Use Classification .....5-2  
Section 5.5 – Building, Structure, or Use Expansions or Additions .....5-4  
Section 5.6 – Off-Street Parking Area Construction Requirements .....5-4

**Chapter 6 – Sign Regulations**

Section 6.1 – Definitions .....6-1  
Section 6.2 – Purpose of Sign Regulations.....6-2  
Section 6.3 – Off-Premises Signs .....6-2  
Section 6.4 – Permit .....6-3  
Section 6.5 – Removal of Illegal Signs.....6-3  
Section 6.6 – Signs Prohibited from Public Right-of-Way of Corner Clearance.....6-3  
Section 6.7 – Maintenance of Signs .....6-4  
Section 6.8 – Sign Requirements .....6-4  
Section 6.9 – Substitution Clause .....6-9  
Section 6.10 – Severability Clause .....6-9

**Chapter 7 – Special Land Use Permits**

Section 7.1 – Intent and Purpose.....7-1  
Section 7.2 – Special Land Uses Eligible.....7-1  
Section 7.3 – Review and Issuance of Special Land Use Permit .....7-1  
Section 7.4 – Materials to be Submitted for Application, Review and Approval.....7-1  
Section 7.5 – Procedures for Review.....7-2  
Section 7.6 – Standards to Consider When Reviewing Special Land Use Permits .7-4  
Section 7.7 – Standards, Requirements, and Conditions for Special Land Uses ....7-4  
Section 7.8 – Agricultural Storage, Terminals, and Processing Facilities .....7-5  
Section 7.9 – Airports and Landing Strips.....7-5

## **Chapter 7 – Special Land Use Permits (con’t)**

Section 7.10 – Automobile Service Station, Repair, or Washing Facility .....	7-5
Section 7.11 – Bed and Breakfast Inn (Tourist Homes) .....	7-6
Section 7.12 – Building Supply, Warehouses, and Wholesale Businesses .....	7-6
Section 7.13 – Commercial Recreation Uses (Bowling Alleys, Pool Hall, etc.).....	7-7
Section 7.14 – Dealerships for New/Used Auto or Farm Equipment .....	7-7
Section 7.15 – Drive-In or Drive-Thru Business Operations.....	7-7
Section 7.16 – Farm Equipment Sales and Service .....	7-8
Section 7.17 – Golf Courses and Private Recreation Facilities .....	7-8
Section 7.18 – Institutional Uses for Human Care, Education, Social, Cultural, and Religious Purposes.....	7-8
Section 7.19 – Mobile Home Parks.....	7-9
Section 7.20 – Large Scale Primary Metal Industries such as Foundries and Steel Mills, Petroleum Refining and Chemical Manufacturing Plants, and Electrical Generating Plants .....	7-9
Section 7.21 – Multiple-Family Residential Uses .....	7-10
Section 7.22 – Sanitary Landfills, Solid Waste Transfer Stations, Solid Waste Processing, Storage or Disposal Areas; Junkyards; Sewage and Disposal Facilities... ..	7-10
Section 7.23 – Veterinary Clinics and Kennels .....	7-11
Section 7.24 – Wind Energy Conversion System.....	7-11
Section 7.25 – Solar Energy Facilities .....	7-22
Section 7.26 – Outdoor Firing Range .....	7-30
Section 7.27 – Soil Resource Extraction and Pond Construction.....	7-31

## **Chapter 8 – Administration**

Section 8.1 – Zoning Administrator.....	8-1
Section 8.2 – Zoning Permit Required .....	8-2
Section 8.3 – Application for Zoning Permit .....	8-2
Section 8.4 – Processing of Application.....	8-2
Section 8.5 – Issuance of Zoning Permit .....	8-2
Section 8.6 – Failure to Obtain Permit .....	8-3
Section 8.7 – Denial of Zoning Permit .....	8-3
Section 8.8 – Revocation of Zoning Permit.....	8-3
Section 8.9 – Appeals of the Decision of the Zoning Administrator .....	8-3
Section 8.10 – Enforcement .....	8-3
Section 8.11 – Public Hearing Notice Requirements and Procedures.....	8-4
Section 8.12 – Amendments.....	8-5

**Chapter 9 – Site Plan Review**

Section 9.1 – Intent and Purpose.....9-1  
Section 9.2 – Uses, Buildings, and Structures Subject to Site Plan Review .....9-1  
Section 9.3 – Application and Fee .....9-2  
Section 9.4 – Required Information .....9-2  
Section 9.5 – Site Plan Review Procedure .....9-2  
Section 9.6 – Standards and Requirements for Site Plan Approval .....9-3  
Section 9.7 – Conditions and Safeguards.....9-4  
Section 9.8 – Appeal of Site Plan Review Decisions.....9-4  
Section 9.9 – Special Land Uses and Concurrent Approvals .....9-5  
Section 9.10 – Amendments to Approved Site Plans.....9-5

**Chapter 10 – Zoning Board of Appeals**

Section 10.1 – Authorization.....10-1  
Section 10.2 – Membership and Procedures .....10-1  
Section 10.3 – Appeals.....10-3  
Section 10.4 – Interpretation.....10-4  
Section 10.5 – Variances.....10-4

# Chapter 1 – Miscellaneous Provisions

The Township of Fairgrove, Tuscola County, Michigan Ordains:

## Section 1.1 – Short Title

This ordinance shall be known as the "Fairgrove Township Zoning Ordinance" and may be cited as such.

## Section 1.2 – Purpose

It is the general purpose of this ordinance to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated, and further to:

- a. Promote the public health, safety, and welfare;
- b. Encourage the use of the lands in accordance with their character and adaptability and to limit the improper use of land;
- c. Conserve natural resources and energy;
- d. Meet the needs of residents for food, fiber and other natural resources, places of residence, recreation, industry, trade, service, and other uses of the land;
- e. Ensure that uses of the land shall be situated in appropriate locations and relationships;
- f. Avoid overcrowding of the population;
- g. Provide adequate light and air;
- h. Lessen congestion on the public roads and streets;
- i. Reduce hazards to life and property;
- j. Facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements;
- k. Conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties;
- l. Adopt provisions for each designated zoning district that shall control the use of land and property; the use, size and location of buildings; the minimum yard, courts, and other open spaces; and the maximum number of families to be housed in buildings or structures.

### **Section 1.3 – Conflicts with other Acts, Ordinances, or Regulations**

Whenever any provision of this ordinance imposes requirements for lower heights of buildings, or a less percentage of lots that may be occupied, or require wider or larger courts or deeper yards than are imposed or required by existing provisions of Acts, Ordinances, or Regulations of the Township of Fairgrove, the provisions of this ordinance shall govern. Whenever any other Act, Ordinance, or Regulation has provisions of and requirements for lower height of buildings or less percentage of lots that may be occupied, or require wider or larger courts or deeper yards than are required by this ordinance, the provisions of the other Act, Ordinance, or Regulation shall govern. In the interpretation and application of this ordinance, all provisions shall be:

- a. considered as minimum requirements;
- b. liberally construed in favor of the governing body; and
- c. deemed neither to limit nor repeal any other powers granted under state statutes.

### **Section 1.4 – Severability**

It is the legislative intent that this ordinance be liberally construed and should any provision or section of this ordinance be held unconstitutional or invalid, such ruling shall not be construed as affecting the validity of remaining portions of the ordinance; it being the intent that this ordinance shall stand notwithstanding the invalidity of any provision or section therein.

### **Section 1.5 – Repeal**

The Township of Fairgrove Rural Zoning Ordinance, including zone district classifications enacted and amended is hereby repealed, and all other ordinances or parts of ordinance inconsistent, or in conflict herewith, are also hereby repealed; provided, however, said repeal shall not abate any action now pending under, or by virtue of, the ordinance herein repealed, nor shall said repeal discontinue, abate, modify, or alter any penalty accrued to or to occur, or affect the rights of any person, firm, or corporation or waive any right of the Township of Fairgrove under any section or provision of the ordinance herein repealed at the time of the passage of this ordinance.

### **Section 1.6 – Vested Rights**

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

### **Section 1.7 – Effective Date**

A public hearing having been held, the provisions of this chapter are hereby given immediate effect, pursuant to the provisions of the Michigan Enabling Zoning Act, PA 110 of 2006, as amended.



## Chapter 2 – Definitions

### Section 2.1 – Rules Applying to the Definitions

For the purposes of this ordinance, certain rules of construction apply to the text as follows:

- a. The particular shall control the general.
- b. In the case of any difference of meaning and implication between the text of this ordinance and any caption, preamble, or illustration, the text shall control.
- c. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- d. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural shall include the singular unless the context clearly indicates the contrary.
- e. The word “lot” includes the words “plot,” “tract,” or “parcel.”
- f. A “building” or “structure” includes any part thereof.
- g. A “dwelling” includes the word “residence.”
- h. The phrase “used for” may include “arranged for,” “designed for,” “intended for,” “maintained for,” or “occupied for.”
- i. The word “person” includes an “individual,” a “corporation,” a “partnership,” and incorporated “association,” or any other similar entity.
- j. The term “he” shall be read as he, she or they.
- k. Unless the context clearly indicates the contrary, where regulation involves two or more items, conditions, provisions, or events connected by the conjunctions, “and,” “or,” “either...or,” the conjunction shall be interpreted as follows:
  1. “and” indicates that all the connected items, conditions, provisions, or events shall apply.
  2. “or” indicates that the connected items, conditions, provisions, or events may apply singly or in combination.
  3. “either...or” indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- l. Any word or term not herein defined shall be used with a meaning of common, standard use.

## Section 2.2 – Definitions

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

**ACCESSORY BUILDING.** A building, structure or use which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use.

**ACCESSORY OCCUPATION.** An accessory occupation is an occupation carried on within the walls of an accessory building and not visible or noticeable in any manner or form from outside the accessory structure.

**ACCESSORY USE.** An accessory use includes a building or structure and is a use clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.

**ACTIVITY.** See “use.”

**ADJACENT.** A lot or parcel of land which shares all or part of a common lot line with another parcel of land.

**ADJACENT LIVESTOCK PRODUCTION FACILITIES.** Any livestock production facility that is within 1,000 feet of a second livestock production facility and where the two facilities are under common ownership.

**ADJACENT PROPERTY.** An adjacent property is land owned by someone other than the livestock facility owner that borders the property on which a proposed new or expanding livestock facility will be located.

**ADULT BUSINESS.** Establishments engaged in the business of adult entertainment including, but not limited to:

- a. Adult-related businesses.
- b. Adult book stores.
- c. Adult motion picture theaters.
- d. Adult mini motion picture theaters.
- e. Exotic cabarets.
- f. Massage parlors.
- g. Public baths.
- h. Taxi dance halls.

**ADULT FOSTER CARE FACILITY.** A private home licensed by the State of Michigan that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the

definition of adult foster care facility by the Adult Foster Care Facility Licensing Act (1979 PA 218), MCL 400.701, et. Seq.; MSA 16.610 (61), et. seq., as amended. An “Adult Foster Care Family Home” is further defined as having six (6) or fewer adults, an “Adult Foster Care Small Group Home” as having twelve (12) or fewer adults, and an “Adult Foster Care Large Group Home” as having at least thirteen (13) but not more than twenty (20) adults.

**AFFILIATED.** “Affiliated” means a farm under the same ownership or control (e.g., leased) as the farm market whether or not the farm market is located on the property where production occurs. However, the market must be located on land where local land use zoning allows for agriculture and its related activities.

**AGRICULTURE.** See “Farm” definition.

**ALTERATIONS.** Any change, addition, or modification to a structure of type of occupancy, any change in the structural members of a building, such as walls, or partitions, columns, beams, or girders, the consummated act of which may be referred to herein as “altered” or “reconstructed.”

**ANIMALS.** See “Pets” and “Farm Animals.”

**ANIMAL UNITS.** Animal units are defined as listed in (Table 1) of these GAAMPs.

Table 1. Animal Units

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

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

\*\* Weighing over 55 pounds.

**ANSI.** American National Standards Institute.

**APARTMENTS.** A residential structure containing three (3) or more single- family dwellings. See also, definition of “Dwelling Types,”

**AUTOMOBILE CAR WASH.** An establishment being housed in a building or portion thereof together with the necessary mechanical equipment used for washing automobiles and using production line methods.

**AUTOMOBILE SALES AND REPAIR SHOP.** An auto sales or repair business is an establishment engaged in the sale, rental or leasing of new or used automobiles, vans or pickup trucks or a business performing repairs on such vehicles, including work that requires the engine to be removed, replacement or modification of the frame, body, transmission or suspension systems, glass or upholstery replacement, or the painting or undercoating of vehicles.

**AUTOMOBILE SERVICE STATION.** An auto service business is any establishment engaged in the direct retail sale of gasoline or other engine fuel, motor oil or lubricants, or performing interior or exterior cleaning, sale of tires, parts or accessories, inspection, lubrication, engine tuning or minor repair for automobiles, vans or pickup trucks.

**BANK.** See “financial business.”.

**BAR.** A structure or part of a structure used primarily for the sale or dispensing of liquor by the drink.

**BASEMENT.** Is that portion of a building which is partly, or wholly, below grade, but 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 grade to the ceiling is over five (5) feet, or is used for business or dwelling purposes, such floor shall be deemed a first-story rather than a basement.

**BED AND BREAKFAST INN (TOURIST HOME).** Any dwelling used or designed in such manner that certain rooms, in excess of those used by the permanent occupants, and occupied as a dwelling unit by those occupants, are rented to the public for compensation and caters primarily to the public interested in touring, vacation, business, or pleasure. Said inn may provide a light breakfast for renting itinerants but may not serve any food for compensation to those other than renting a room for the evening.

**BERM.** An earthen buffer that obscures sight, traffic and sound.

**BILLBOARD OR OUTDOOR ADVERTISING.** A billboard shall mean any structure or portion thereof designed or intended to be used for posting, painting, or otherwise affixing any advertising sign which does not pertain to the premises or to the use of the premises on which the billboard is located or to goods and services rendered or activities conducted on such premises.

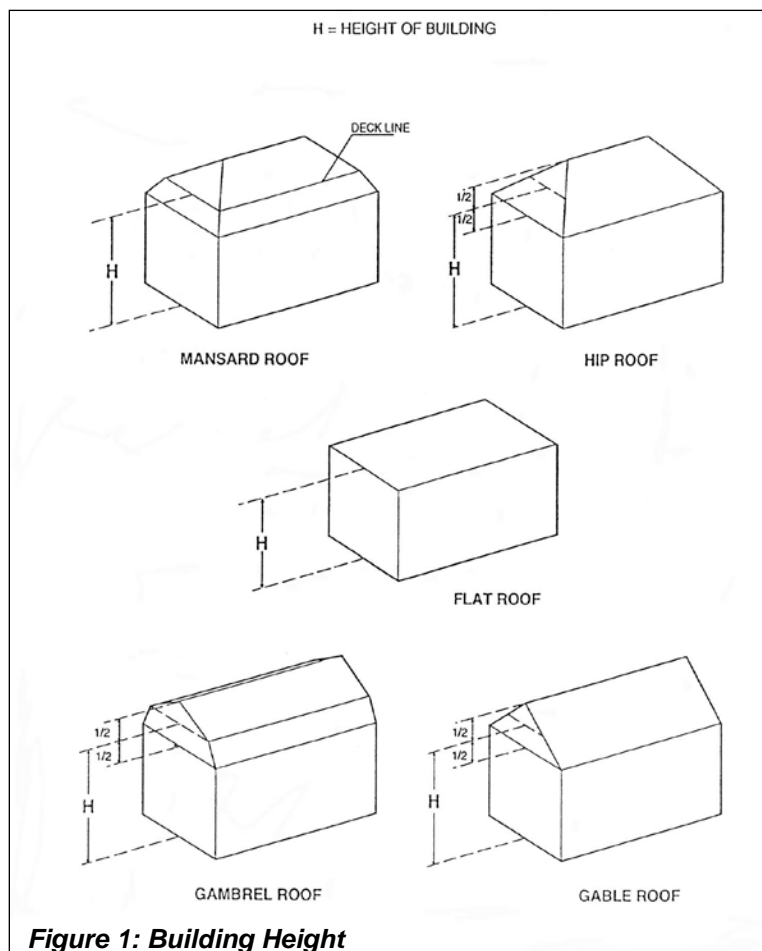
**BUFFER.** A buffer may be open green space, landscaped areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances.

**BUFFER STRIP.** A vegetated area that treats sheet flow and/or interflow by removing sediment and other pollutants. The area may be grass-covered, forested or of mixed vegetative cover, depending on the amount of pollutants to be removed and the size of the buffer strip.

**BUILDING.** Is any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings, or vehicles situated on private property and used for such purposes.

**BUILDING, FRONT LINE OF.** The line that coincides with the face of the building nearest the front of the lot. This face includes sun parlors and enclosed porches but does not include steps. Such line shall be parallel to the front lot line and measured as a straight line between the intersecting points with the side yard.

**BUILDING, HEIGHT.** Is the vertical distance measure from the established grade of the center of the front of the building to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the lowest point and the highest point on a shed roof. Where a building is located on a sloping terrain, the height may be measured from the average ground level of the grade at the building wall. (See Figure 1)



**BUILDING LINE.** A line defining the minimum front, side or rear yard requirement outside of which no building or structure may be located.

**BUILDING, PRINCIPAL.** A building in which is conducted the main or principal use of the lot on which it is located.

**BULK STATION.** A place where crude petroleum, gasoline, naphtha, benzene, kerosene or any other flammable liquid is stored for wholesale purposes only, where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.

**BUSINESS SERVICES.** A business service establishment provides services to other businesses as their primary clientele, and may involve some outside storage of equipment or vehicles, but not of inventory. Business services include, but are not limited to, employee training, audio or visual communication media (including broadcast antennas, sign production and installation, equipment rental or repair, building maintenance and self-service storage.

**CEMETERY.** Property used for interring of the dead.

**CLINIC.** An establishment where human patients are admitted for examination and treatment by a group of physicians, dentists, or other health care workers, but where said patients are not lodged overnight.

**CERTIFICATE OF ZONING COMPLIANCE.** A certificate issued by the zoning administrator to allow occupancy of land or structure pursuant to this ordinance.

**CLUB.** An organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political or social purposes, which are not conducted primarily for gain and which do not provide merchandise, vending or commercial activities except as required incidentally for the membership and purpose of such club.

**COMMERCIAL RECREATION.** Commercial recreational facilities are for-profit establishments providing recreational activities for a fee. Commercial recreational facilities include such uses as bowling alleys, roller rinks, etc.

**COMMERCIAL SCHOOL.** A commercial school is a private educational facility not operated as a non-profit entity and offering instruction in art, business, music, dance, trades, continuing professional education or other subjects.

**COMMON LAND.** A parcel or parcels of land together with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.

**COMMUNITY SUPPORTED AGRICULTURE OR CSA.** A CSA is a marketing strategy in which a farm produces farm products for a group of farm members or subscribers who pay in advance for their share of the harvest. Typically, the farm members receive their share once a week, sometimes coming to the farm to pick up their share; other farms deliver to a central point.

**CONDOMINIUM ACT.** MCL Act 59 of 1978, as amended.

**CONDOMINIUM, EXPANDABLE.** A condominium project to which additional land may be added pursuant to express provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**CONDOMINIUM SUBDIVISION.** See SUBDIVISION, as defined in this chapter.

**CONDOMINIUM SUBDIVISION PLAN.** The site, survey, and utility plans, floor plans and sections, showing the existing and proposed structures and improvements.

**CONDOMINIUM UNIT.** A portion of a building, or group of buildings, designed for separate ownership. Common areas and facilities are owned by all the owners on a proportional, undivided basis. A condominium is differentiated from other dwellings types based on ownership and as such is not regulated as a dwelling unit type.

**CONSOLIDATING MASTER DEED.** The final amended master deed for a contractible condominium project, and expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

**CONTRACTIBLE CONDOMINIUM.** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**CONVALESCENT OR NURSING HOME.** A building wherein infirm or incapacitated persons are furnished shelter, care, food, lodging and needed attention for a compensation.

**CONVENIENCE STORE.** A retail operation selling a variety of items which are primarily grocery products. They include items that may be required by neighborhood residents on a day to day basis. Nongrocery items frequently sold in this kind of establishment include newspapers, magazines, seasonal needs, etc.

**CONVERSION CONDOMINIUM.** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

**CONVERTIBLE AREA.** A unit or portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**COVERAGE, LOT.** That percent of the plot or lot covered by the building area.

**CUL DE SAC.** A street with only one outlet having sufficient space at the closed end to provide vehicular turning area.

**dB(A).** The sound pressure level in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

**DECIBEL.** The unit of measure used to express the magnitude of sound pressure and sound intensity.

**DEPTH.** For the purposes of interpreting the dimensions table, depth is the distance from a property line to a structure.

**DISH ANTENNA.** Means an earth-based station whose purpose is to receive communications or other signals from orbiting satellites or other extraterrestrial sources together with such other equipment related to such purpose. Generally such facility shall include the dish antenna, low-noise amplifier, coaxial cable, and mounting structure.

**DISTANCES BETWEEN A LIVESTOCK PRODUCTION FACILITY AND NON-FARM RESIDENCES.** The distance from a livestock production facility and a residence is measured from the nearest point of the livestock production facility to the nearest point of the residence.

**DISTRICT.** A portion of the unincorporated part of the Township within which certain regulations and requirements, or various combinations thereof, apply under the provisions in Article 4 of this Ordinance.

**DOMESTICATED ANIMAL.** An animal that has been housed and fed by a human owner and has learned to depend on human provision so completely that it has little ability to survive if returned to a natural habitat. Typically includes animals like dogs and cats used as pets, and not animals on farms as part of an agricultural or farming operation.

**DRIVE-IN.** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking space for motor vehicles so as to serve patrons while in the motor vehicle, or within a building on the same premises and devoted to the same purpose as the drive-in service. Drive-in is also interpreted to include “fast food” operations which serve food in disposable containers.

**DRIVE THROUGH BUSINESS.** A business establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in the vehicle.

**DRIVEWAY.** A private roadway providing access for vehicles to a parking space or other structure.

**DWELLING UNIT.** A building, or a portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.

**DWELLING, MULTIPLE FAMILY.** A building containing three (3) or more dwelling units designed for exclusive use and occupancy by three (3) or more families.

**DWELLING, SINGLE FAMILY.** A building designed for exclusive use and occupancy as a dwelling unit by one (1) family.

**DWELLING, TWO-FAMILY.** A building containing two (2) separate dwelling units designed for residential use and connected by either a common wall or an attached garage area.

**DWELLING UNIT.** A building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation, for exclusive use by one family.



**ELDERLY HOUSING.** A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

**ENTERTAINMENT.** For the purposes of this Zoning Ordinance, “entertainment” means live performance. Video machines, billiards, etc., are not considered entertainment.

**ESSENTIAL SERVICES.** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electric, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith (reasonably necessary for adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare) but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment.

**EXOTIC PET (OR EXOTIC ANIMAL).** An unusual creature kept as a pet, sometimes for the express purpose of having a pet which is unique. Includes any unique- or wild-looking pet, such as common domestic animals like the ferret and the domestic rat. Alligators, wolves and wolf/dog hybrids, wild cat cubs (lions, tigers, ocelots, etc.), snakes, tortoises, spiders, scorpions, and rare birds are among the species typically considered as exotic pets. The term is also used for a species which is non-indigenous to the owner or prospective owner’s locale.

**EXPANDING LIVESTOCK PRODUCTION FACILITY.** An addition to a livestock production facility to increase the holding capacity where animals will be confined at a site that presently has livestock production facilities contiguous to the construction site. A new or expanded manure storage structure built to accommodate an expansion in animal units within three years from construction of the manure storage will also be considered an expanding livestock production facility.

**FAMILY.** An individual or group of two (2) or more persons related by blood, marriage or adoption, including those related as foster children, who are domiciled together as a single, domestic, non-profit housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one dwelling unit whose relationship is of continuing, non-transient, distinct domestic character and who are cooking and living as a single, non-profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms of other similar determinable period.

**FAMILY CHILD CARE HOME.** A state-licensed (regulated by PA 116 of 1973, as amended), owner-occupied private residence in which one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.

**FARM.** From the MDARD 2016 GAAMPs, a “farm” means the land, plants, animals, buildings, structures, (including ponds used for agricultural or aquacultural activities), machinery, equipment, and other appurtenances used in the commercial production of farm products.

**FARM ANIMALS.** Farm animals are those animals that are commonly used for utilitarian or productive purposes. Such animals typically include beef cattle, dairy cattle, horses, ponies, goats, sheep, swine, donkeys, mules, oxen, rabbits, or any similar animal.

**FARM FOWL.** Farm fowl are defined as including chickens, ducks, turkeys, geese, peacocks, and guinea hens, or any fowl to be raised for resale or to be sold for profit.

**FARM MARKET.** A “farm market” is a place or an area where transactions between a farm market operator and customers take place. This includes roadside stands. It does not necessarily mean a physical structure such as a building and is considered part of a farm operation. At least 50 percent of the products marketed and offered for sale at a farm market (measured as an average over the farm market’s marketing season or up to a five-year timeframe) must be produced on and by the affiliated farm. Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales in accordance with Michigan laws, and then sold at the affiliated farm market, as long as allowed by local, state and federal regulations. A farm market may operate seasonally or year-round. Farm markets may include marketing activities and services to attract and entertain customers and facilitate retail trade business transactions, when allowed by applicable local, state, and federal regulations.

**FARM PRODUCT.** A “farm product” means those plants and animals useful to humans produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock (including breeding and grazing), equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur as determined by the Michigan Commission of Agriculture & Rural Development.

**FAST FOOD RESTAURANT.** See “drive-in.”

**FENCE.** A structure built of customary fencing material of definite height and location to serve as an enclosure in carrying out the requirements of this ordinance. Dense, obscuring planted hedges are also hereby defined as fences.

**FENCE, OBSCURING.** A structure built of customary fencing material of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance. Dense, obscuring shrubbery may be considered an obscuring fence as determined by the zoning administrator.

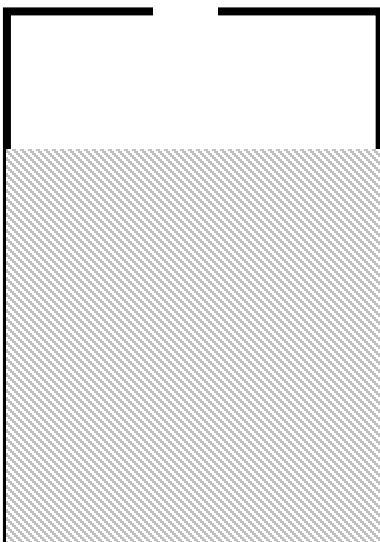
**FIFTY PERCENT OF THE PRODUCTS MARKETED.** For purposes of determining the percentage of products being marketed, the primary measure will be 50 percent of the retail space used to display products offered for retail sale during the affiliated farm’s marketing season. If measurement of retail space during the marketing season is not feasible, then the percent of the gross sales dollars of the farm market will be used. At least 50 percent of the gross sales dollars of products sold at the farm market need to be from products produced on and by the affiliated farm. For processed products, at least 50 percent of the products’ main ‘namesake’ ingredient must be produced on and by the affiliated farm. For example, the apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc.

**FINANCIAL BUSINESS.** Any institution managing funds on deposit for its customers and /or lending funds to borrowers. This includes, but is not limited to, banks, savings and loan institutions, credit unions, stock and bond brokerages, and insurance agencies.

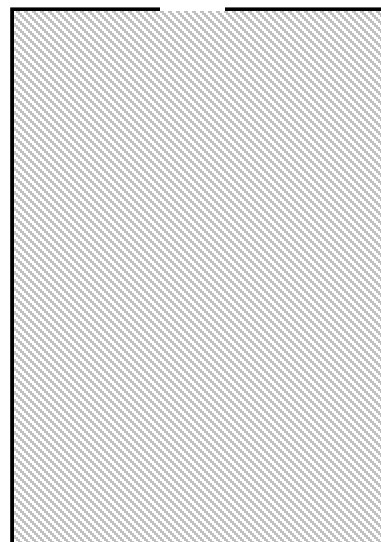
**FLAG LOT.** A lot not fronting entirely on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

**FLOOR AREA, RESIDENTIAL.** Shall be considered for the purposes of computing the floor area of a residential dwelling unit, the sum of the horizontal areas of each story of a dwelling unit, measured from the interior faces of the exterior walls, exclusive of areas of basements, unfinished attics, attached garages, carports, breeze ways and enclosed or unenclosed porches.

**FLOOR AREA, USABLE.** That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from this computation of useable floor area. Useable floor area shall be measured from the interior faces of the exterior walls, and total useable floor area for a building shall include the sum of the useable floor area for all floors. (See Figure 2)



**Figure 2: Useable Floor Area**



**Figure 3: Gross Floor Area**

**FLOOR AREA, GROSS.** The floor area of space on all floors including basements, intermediate floor tiers, and penthouses, measured from the exterior faces of exterior walls. “Gross floor area” does not include covered walkways, open roofed-over areas, porches, pipe trenches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements. (See Figure 3)

**FRONTAGE.** The continuous length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way.

**FUNERAL HOME.** A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

**GARAGE SALE.** Includes the terms “tag sale,” “attic sale” and “yard sale,” or other types of similar residential sales, and shall mean a sale of used tangible personal property such as clothing, household effects, tools, garden implements, toys, recreation equipment or other used or secondhand items customarily found in and about the home and advertised in a manner whereby the public at large is, or can be, aware of such sale.

**GARBAGE.** Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and serving of foods.

**GRADE.** The highest part of the ground contacting any portion of the basement or foundation of a dwelling.

**GREENBELT.** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen, buffer strip, or decorative treatment in carrying out the requirements of the ordinance.

**GROUP CHILD CARE HOME.** A state-licensed (regulated by PA 116 of 1973, as amended), owner-occupied private residence in which seven (7) but not more than twelve (12) children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.

**HEALTH CARE INSTITUTION.** A state licensed medical establishment whose facilities provide in-patient accommodation, a wide range of medical and surgical care, and other in-patient health services for sick, ailing or injured persons; and including such related facilities as laboratories, outpatient departments, training facilities, central services and staff offices and residences which are integral with, an accessory to the principal use of the establishment.

**HOME-BASED BUSINESS.** A business operation conducted from a residential property which is subordinate and incidental to the residential nature of the property and which involves business activities generally expected to be conducted within a commercial or business location.

**HOME INDUSTRY.** A small-scale use providing a service primarily to the rural farming community and which is accessory to a one-family detached dwelling unit or an agricultural operation. A home industry may be conducted in whole or in part in an accessory building.

**HOME OCCUPATION.** An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

**HOTEL or MOTEL.** Any establishment in which individual cabins, courts, rooms, suites or similar structures or units are rented to transients for temporary periods of time. A “hotel” shall include tourist cabins and homes and motels, but shall not include bed and breakfast establishments.

**HOSPITAL.** An institution for the diagnosis, treatment or care of aged, sick or injured people. The term “hospital” shall include sanatorium, rest home, nursery home and convalescent home, but shall not include any institution for the care of mental disorders or the treatment of alcoholics or drug addicts.

**HOUSE TRAVEL TRAILER.** A vehicular portable structure designed as a temporary dwelling for travel, and recreation and vacation uses.

**INCARCERATION FACILITY.** Any jail, prison, holding facility, work camp or detention center of any kind.

**INCINERATOR.** An engineered apparatus used to burn waste substances and in which all the combustion factors, temperature, retention time, turbulence and combustion air, can be IEC: International Electrotechnical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.

**IEC.** International Electrotechnical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.

**INOPERABLE VEHICLE.** Any vehicle or part of a vehicle which is unregistered, unlicensed, or non-functioning for any reason.

**ISO.** International Organization for Standardization. ISO is a network of the national standards institutes of 156 countries.

**JUNK.** Any discarded personal or scrapped property, including any property which may or may not be salvaged for reuse, resale, reduction or similar disposition, or which is processed, transported, accumulated, dismantled, or sorted for any such reason. The term shall include used and salvaged metals, paper, glass, rubber, rope, machinery, or any motor vehicle which is intended for dismantling or salvaging. One or more vehicles that are inoperative or unlicensed for four (4) months shall be construed as a junkyard.

**JUNK YARD.** Is any open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junkyard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping, or abandonment of junk, but does not include such uses established entirely within enclosed buildings.

**KENNEL, PRIVATE OR COMMERCIAL.** Any lot or premises on which three (3) or more dogs, cats, or other domestic pets are either permanently or temporarily boarded, bred, or cared for compensation.

**LIVESTOCK.** From the MDARD 2016 GAAMPs, livestock means those species of animals used for human food, fiber, and fur, or used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, and rabbits. For the purpose of the Site Selection GAAMPs, livestock does not include dogs and cats. Site Selection GAAMPs do not apply to aquaculture and bees.

**LIVESTOCK FARM RESIDENCE.** A residence on land owned/rented by the livestock farm operation and those residences on farms affiliated by contract or agreement with the livestock production facility.

**LIVESTOCK FACILITY.** Any facility where livestock are kept regardless of the number of animals.

**LIVESTOCK PRODUCTION FACILITIES.** All facilities where livestock are kept with a capacity of 50 animal units or greater and/or the associated manure storage facilities. Sites such as loafing areas, confinement areas, or feedlots, which have livestock densities that preclude a predominance of desirable forage species are considered part of a livestock production facility. This does not include pastureland.

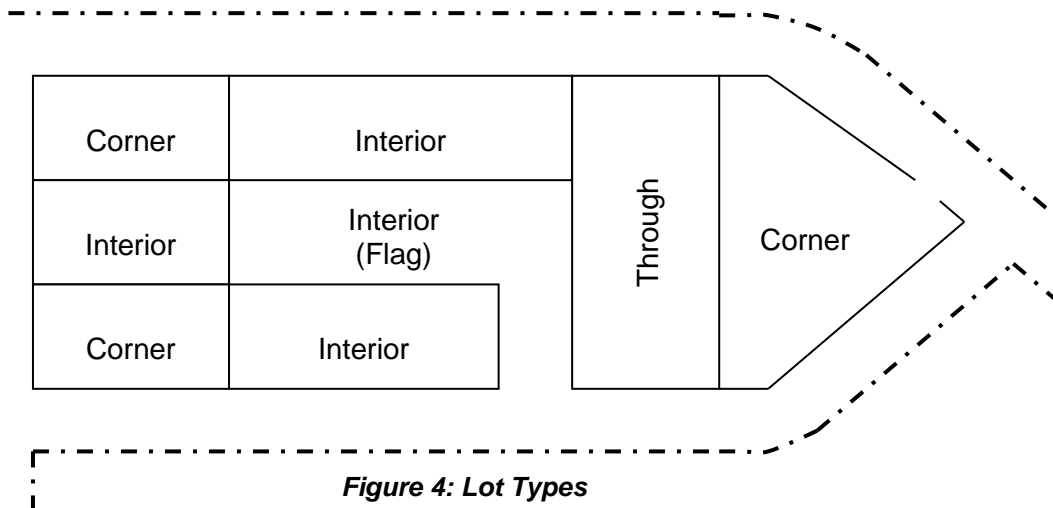
**LOADING SPACE.** An off-street space on the same lot with a building, or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise, materials, or passengers.

**LOT.** Is a parcel of land occupied, or which could be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this ordinance. A lot normally shall have its frontage located upon a public right-of-way or thoroughfare. In the event that a parcel does not front on a road right-of-way, it shall meet all minimum lot requirements as if it were fronting on the road and shall have a minimum thirty feet (30') wide frontage on a road right-of-way for access through fee simple ownership, easement or long-term (40 years or more) leases on a fronting lot.

**LOT AREA.** The total horizontal land area within the lot lines of the lot.

**LOT OF RECORD.** Is a parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by township or county officials and which actually exists as so shown, or any part of such parcel held in recorded ownership separate from that of the remainder thereof.

**LOT, CORNER.** A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this ordinance if the arc is a radius of less than one hundred fifty feet (150') and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.



**Figure 4: Lot Types**

**LOT, INTERIOR.** Any lot other than a corner lot, with only one lot line fronting on a street.

**LOT LINE.** A line of record bounding a lot or parcel from another lot or parcel, from a public or private road, or from any other public space.

**LOT LINE, FRONT.** The line separating a lot or parcel from a road right-of-way or road easement (See Figure 5).

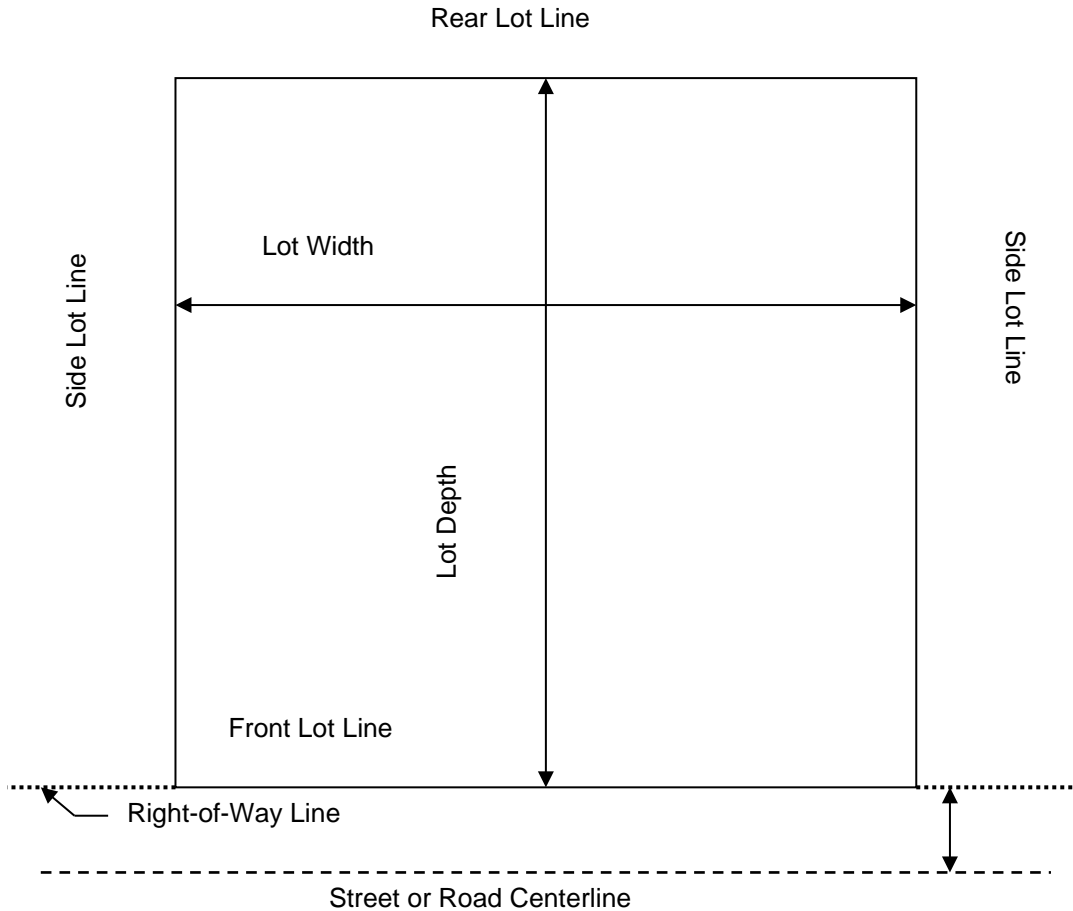
**LOT LINE, REAR.** That lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line (See Figure 5).

**LOT LINE, SIDE.** Any lot line not a front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line (See Figure 5).

**LOT WIDTH.** The horizontal distance between the side lot lines, measured at the two (2) points where the required front yard setback line intersects the side lot lines (See Figure 5).

**LOT COVERAGE.** The part or percent of the lot occupied by buildings, including accessory buildings.

**LOT DEPTH.** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines. The front lot line shall be measured from the road right-of-way to determine depth and area.



**LOT, DOUBLE FRONTAGE (THROUGH LOT).** Is any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lot adjacent to streets shall be considered frontage. Front yards shall be provided on both parallel streets as required.

**LOT WIDTH.** The horizontal distance between the side lot lines measured at the two points where the front building line intersects the side lot lines.

**LUMBER YARD.** A lumber yard is a business which emphasizes the sale of lumber and wood products where material may be stored or displayed in the principal building or in accessory shed-type structures.

**MALFEASANCE.** The commission of an unlawful act, done in an official capacity, which affects the performance of official duties.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.



**MANUFACTURING.** An operation in which raw materials or partially finished material is processed. This processing can include stamping, rolling, forging, plating, heat-treating, forming, molding and assembly.

**MASTER DEED.** The condominium document recording the condominium project as approved by the zoning administrator to which is attached as exhibits and incorporated by reference, the approved bylaws for the project and the approved condominium subdivision plan for the project.

**MASTER PLAN.** A comprehensive long-range plan intended to guide the growth and development of a community. The Plan includes analysis, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and future land use.

**MIGRANT LABOR HOUSING CAMP.** From the MDARD 2016 GAAMPs, a migrant labor housing camp owned by a livestock producer applying for Site Selection GAAMP approval will be considered a farm residence.

**MISFEASANCE.** The wrongful performance of a normally lawful act; the wrongful and injurious exercise of lawful authority.

**MOBILE HOME.** A detached single-family dwelling unit with all of the following characteristics:

- a. Designed for a long-term occupancy.
- b. Containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.
- c. Designed to be transported after fabrication on its own wheels or on flatbed or other trailers or detachable wheels.

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

**MOBILE HOME PARK.** A parcel intended and designed to accommodate mobile homes for residential use, which is offered to the public for that use along with any structure, facility, gear or equipment permitted and incidental to the residential use. Referred to also as "park."

**MOBILE HOME SPACE.** A plot or parcel of land within the mobile home park designed to accommodate one mobile home.

**MOBILE HOME STAND.** That part of a mobile home space which has been reserved for the placement of the mobile home, appurtenant structures, or additions.

**MODULAR HOME.** A fabricated, transportable building unit designed to be incorporated at a building site into a structure on a permanent foundation for residential use.

**MOTEL.** See "hotel"

**MOTOR VEHICLE SALES AND/OR REPAIR.** Any establishment engaged in the sale, rental, or leasing of new or used automobiles, vans, pickup trucks, recreational vehicles, or travel trailers; or a business performing repairs on such vehicles, including work which requires the engine to be removed, replacement or modification of the frame, body, transmission, or suspension systems, glass or upholstery replacement, or the painting or undercoating of vehicles.

**MOTOR VEHICLE SERVICE FACILITY.** Any establishment engaged in the direct retail sale of gasoline or other engine fuels, motor oil or lubricants, performing interior or exterior cleaning, sale of tires, parts, or accessories, inspection, lubrication, engine tuning, or minor repair for automobiles, vans, pickup trucks, or other motor vehicles.

**NACELLE.** The protective casing of a wind turbine, covering the gearbox, generator, blade hub, and other parts.

**NEW LIVESTOCK PRODUCTION FACILITIES.** All facilities where livestock will be kept and/or manure storage structures that are built at new sites and are not part of another livestock production facility, including a site that is expanding greater than 100 percent of existing production within any three year time period and the resulting number of animal units will exceed 749.

**NONCONFORMITY.** Any use of land or a building, any parcel of land, or any building or other structure which does not comply with all of the district regulations for the zoning district in which it is located.

**NONCONFORMING STRUCTURE.** 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 nor to the regulations of the district in which it is located.

**NONCONFORMING USE.** A use which lawfully occupied a building at the effective date of this ordinance, or amendments thereto, that does not conform to the use regulations of the district in which it is located.

**NON-FARM RESIDENCE.** A residence that is habitable for human occupation and is not affiliated with the specific livestock production system.

**NONFEASANCE.** Failure to perform an act that is either an official duty or a legal requirement.

**NON-LEASED PROPERTY.** Any parcel of property in Fairgrove Township that is not included in a proposed Utility-Grid Wind Energy System.

**NON-PROFIT ORGANIZATION.** The term “non-profit organization” shall include any church, school, governmental agency, service club or similar organization which owns or leases property in the Township.

**NUISANCE PER SE.** A use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted that is in violation of this zoning ordinance, as detailed in the Michigan Planning Enabling Act.

**OCCUPIED.** Includes the intent, design, or arrangement for occupancy.

**OFFICE.** An office is a place of business in which professional services are rendered or management activities of an enterprise are carried out. All such activities take place inside a building. Office activities include, but are not limited to, law, medicine, dentistry, accounting or bookkeeping, tax preparation, insurance, securities brokerage, executive or managerial functions for any type of enterprise, workshop or studio for a graphic artist or photographer, studio for broadcast media, all aspects of a newspaper or publishing business except actual printing, binding or distribution centers, and a base of operation for salespeople which does not include storage or display of merchandise.

**OFFSITE MANURE STORAGE FACILITY.** A manure storage facility constructed at a site that is not adjacent to a livestock production facility.

**OFF-STREET PARKING.** A facility or lot 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 automobiles.

**OPEN SPACE.** Any unoccupied space open to the sky on the same lot with a building. See “courts.”

**PARCEL.** A parcel is a continuous piece of land under uniform ownership which is occupied or intended for occupancy by principal building or use and any accessory structures or uses thereto. Every parcel shall abut upon and have permanent access to a public street. Also “lot.”

**PARKING SPACE.** An area of definite length and width and shall be exclusive of drives, driveways, aisles, or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted motor vehicles.

**PASTURE LAND.** Pasture land is land that is primarily used for the production of forage upon which livestock graze. Pasture land is characterized by a predominance of vegetation consisting of desirable forage.

**PERSONAL SERVICE BUSINESS.** A personal service business primarily serves needs of individual people or families, including, but not limited to, hair or skin care, grooming, dry cleaning, millinery or tailoring, shoe repair and repair of small appliances, watches or jewelry.

**PET.** See domesticated animal.

**PET GROOMING ESTABLISHMENT.** Personal service establishment that, for a fee, trims, cleans, or curries domestic pets such as dogs or cats and which may sell pet supplies as an incidental use. This term does not include establishments which board pets.

**PLANNED UNIT DEVELOPMENT.** An area of minimum size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.

**PLANNING COMMISSION.** The officially designated body of the Township enabled under the Michigan Planning Enabling Act, Act 33 of the Public Acts of 2008, as amended.

**PLOT PLAN.** Often described as a “mini site plan,” a plot plan is a drawing and/or diagram that shows the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, property lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells, and lakes, streams, or wetlands, and any other items required by the Zoning Ordinance to illustrate the intended use and the site.

**PRIMARILY RESIDENTIAL.** From the MDARD 2016 GAAMPs, sites are primarily residential if there are more than 13 non-farm residences within 1/8 mile of the site or have any non-farm residence within 250 feet of the livestock facility.

**PRINCIPAL BUILDING.** A building in which is conducted the principal use of the lot on which it is located.

**PRINCIPAL USE.** The main use to which the premises are devoted and the principal purpose for which the premises exist.

**PRIVATE ROAD.** Any road, highway, street, easement, or thoroughfare for vehicular traffic which is privately owned and maintained, and which provides the principal means of access to abutting properties.

**PROCESSED.** A farm product or commodity may be processed, in accordance with state and federal laws, to convert it into a value-added product that is more marketable for direct sales. Processing may include packing, washing, cleaning, grading, sorting, pitting, pressing, fermenting, distilling, packaging, cooling, storage, canning, drying, freezing, or otherwise preparing the product for sale. These activities can be used to extend a farm market’s marketing season beyond its production season.

**PROPERTY LINE SETBACK.** From the MDARD 2016 GAAMPs, property line setback is the distance from the livestock production facility to the property line measured from the facility to the nearest point of the facility owner’s property line. If a producer owns land across a road, the road or right of way does not constitute a property line. Right of way setbacks for public roads, utilities, and easements apply.

**PUBLIC ROAD.** A road, highway, street, easement, or thoroughfare dedicated to the public which affords the principal means of access to abutting property.

**PUBLIC SERVICE.** Public service facilities within the context of this ordinance shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities, and similar uses including essential services.

**PUBLIC UTILITY.** Any person, firm, or corporation, municipal department, board, or commission duly authorized by law to furnish - under federal, state, or local regulations - gas, steam, electricity, sewage disposal, water supply, communications, telegraph, or transportation.

**RECREATIONAL USE, COMMERCIAL.** Commercial recreational facilities are for profit establishments providing recreational activities for a fee. In general, these activities are participatory in nature. Commercial recreational facilities include such uses as bowling alleys, roller rinks, racetracks, arcades, indoor driving ranges, miniature or putt-putt golf, etc.

**RECREATIONAL USE, PRIVATE.** A recreational use carried out entirely on private land for the property owner and his guests' pleasure. Private recreational uses are not open to the public or admissible by a fee. Examples of this are Putt Putt golf, GO Karts, and similar uses.

**RECREATIONAL VEHICLE.** A vehicle intended and designed primarily for recreational use, such as motor homes, camper trailers, boats, snowmobiles, off-road and all-terrain vehicles, and similar vehicles or trailers. The term "recreational vehicle" shall not include motorcycles or motorbikes, or other similar means of transportation intended primarily for daily on-street use.

**RELIGIOUS INSTITUTIONS.** A church, synagogue, mosque or temple, or other such place of worship and accessory uses commonly found in connection with such institution.

**RESTAURANT.** An establishment where food and drink are prepared, served, and consumed primarily within the principal buildings.

**RETAIL.** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**RETAIL, FOOD.** Any fixed or mobile place or facility at or in which food or drink is offered or prepared for retail sale or for service with or without charge on or at the premises or elsewhere.

**RIGHT-OF-WAY.** A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the right-of-way.

**ROADSIDE STAND.** A structure erected on a farm adjacent to a public road for the sale of products produced chiefly on the farm, provided such use shall be seasonal (open four consecutive months or less) and is constructed and operated according to the following provisions of this ordinance:

- a. There are only two signs of not more than 16 square feet each;
- b. there is one (1) parking space off the right-of-way for each 15 square feet of retail space at the roadside stands; and
- c. the site is on a state highway, county primary road, or section-line road.

**ROTOR.** An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

**RUBBISH.** A general term for solid waste, excluding food waste and ashes taken from residences, commercial establishments and institutions.

**SALES AREA.** The area open to the public of a retail or wholesale establishment used for the display or transaction of goods.

**SALVAGE YARD.** A licensed open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junk/salvage yard includes automobile-wrecking yards, and two (2) or more inoperative, unlicensed vehicles located on a single lot. Operations with the characteristics of salvage yards which are called recycling centers, junk yards, scrap yards, etc., shall be considered as salvage yards.

**SANITARY LANDFILL.** A tract of land developed, designed and operated to accommodate general types of solid waste, including, but not limited to, garbage, rubbish, soils and concrete, but excluding hazardous waste.

**SCADA TOWER.** A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.

**SCREEN.** A structure such as a fence or wall, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

**SECTIONAL HOME.** Two (2) or more units, fabricated and transported to the building site where they are put on a permanent foundation and thereon finished as a residential unit.

**S.E.V.** The state equalized valuation of the property in question, as determined by the ownership assessor. This is presumed to be fifty (50) percent of the property's true cash value.

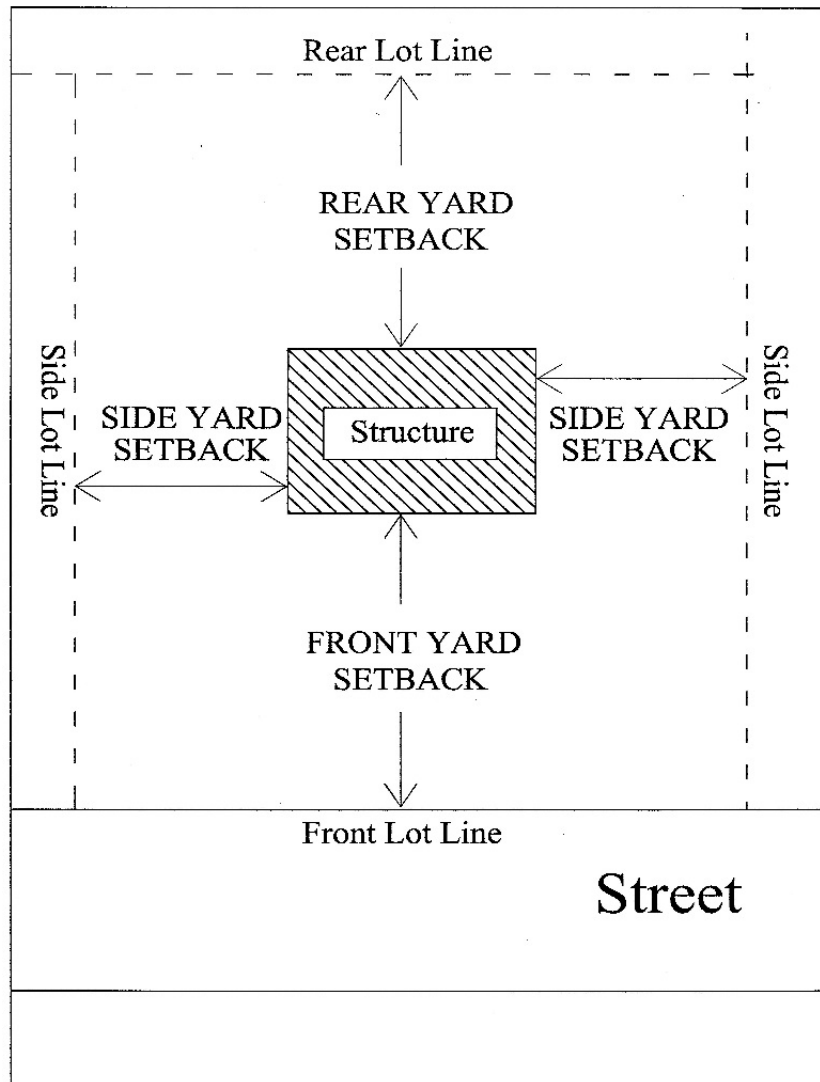
**SERVICE BUSINESS.** A service business is an enterprise which deals in the performance of work for hire. No outdoor activity takes place on the premises. All work is performed either at the customer's place of business or residence or within the building occupied by the service business. See also "office business," "financial business," "personal service business."

**SETBACK.** The required minimum horizontal distance between a front, rear, or side lot line and a building line, as regulated in each zoning district described in Chapter 3. (See Figure 6.)

**SETBACK, FRONT YARD.** The minimum required unoccupied distance, extending the full lot width, as measured from the front lot line, as regulated in each zoning district described in Chapter 3. (See Figure 6.)

**SETBACK, REAR YARD.** The minimum required unoccupied distance, extending the full lot width, as measured from the rear lot line, as regulated in each zoning district described in Chapter 3. (See Figure 6.)

**SETBACK, SIDE YARD.** The minimum required unoccupied distance, extending from the front yard setback to the rear yard setback, as measured from the side lot line(s), as regulated in each zoning district described in Chapter 3. (See Figure 6.)



**Figure 6: Setbacks, as regulated in each zoning district described in Chapter 3**

**SIGN.** A name identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land and which is intended to direct attention to an object, product, place, activity, person, institution, organization or business. However, a “sign” shall not include a sign located completely within an enclosed building. Sign regulations are described in Chapter 5 of this zoning ordinance. For the purpose of this Zoning Ordinance the following sign or sign-related terms are defined:

- a. **AREA, OR SURFACE AREA, OF SIGN.** That area per face enclosed by one outline, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display.
- b. **BILLBOARD SIGN.** A freestanding outdoor sign which advertises something not located on the immediate premises.

- c. **CONSTRUCTION SIGNS.** Signs which identify architects, engineers, contractors and other individuals or firms involved with a construction project, but not including advertisement of any product. These include signs announcing the character of the building enterprise or the purpose for which the building is intended.
- d. **ELECTRIC SIGN.** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.
- e. **ELECTRONIC MESSAGE BOARD.** Changeable copy signs in which the copy consists of an array of lights activated and deactivated simultaneously.
- f. **ENTRANCE/EXIT.** Signs directing traffic movement to or from a parcel.
- g. **FREESTANDING SIGN.** A sign which is affixed to a permanent foundation, but not attached to the building proper. (Also “ground mounted” sign)
- h. **GROUND LEVEL.** The elevation to be used for computing the height of signs. Defined as the roadway centerline grade elevation at its intersection with the centerline of the driveway serving the parcel which is located nearest to the sign location.
- i. **HIGH PROFILE SIGN.** A freestanding identity sign intended to announce to travelers the existence of a business located near an expressway interchange so they may react in time to exit safely.
- j. **IDENTITY SIGN.** A sign that identifies the business, owner or resident and/or the street address and which sets forth no other advertisement.
- k. **ILLUMINATED SIGN.** A sign that provides artificial light directly or through any transparent or translucent material.
- l. **INSTITUTIONAL BULLETIN BOARD.** A structure containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its services or activities.
- m. **INTEGRAL SIGN.** Names of buildings or farms, date of erection, monumental citations, commemorative tablets and the like when made an integral part of the walls of the structure (or roof for farm buildings).
- n. **JOINT SIGN.** A sign which gives direction and identification to a group of adjacent businesses whether or not under single management.
- o. **LAND DEVELOPMENT PROJECT SIGNS, TEMPORARY.** Signs pertaining to the sale, lease, rent or development of a subdivision, planned shopping center, office building, industrial park or similar land parcel.
- p. **LOCATION.** A lot, premise, building, wall or any place whatsoever upon which a sign is located.
- q. **MARQUEE.** An identification sign attached to or made a part of a marquee, canopy or awning projecting from and supported by the building.
- r. **POLITICAL CAMPAIGN SIGNS.** Signs announcing candidates for public political office and other data pertinent to an upcoming election.
- s. **PRIVATE TRAFFIC DIRECTION.** Signs directing traffic movement or giving instructions, located within a parcel.
- t. **PROJECTION.** The distance by which a sign extends over public property or beyond the building line.
- u. **PROJECTING SIGN.** A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
- v. **PROPERTY RENTAL SIGNS.** Signs on the premises announcing rooms, apartment or house for rent, not to exceed four (4) square feet.
- w. **PUBLIC SIGNS.** Signs of a governmental nature and in the public interest, erected by, or on the order of, a public officer in the performance of his or her public duty.
- x. **REAL ESTATE SIGNS.** Signs advertising the sale, rental or lease of the premises or part of the premises on which they are displayed.



- y. **ROOF SIGN.** Any sign erected, constructed, and maintained wholly upon or over the roof of any building.
- z. **SIZE OF SIGN.** The size of a sign is computed as the product of its height and its width expressed in square feet. A sign shall be considered to have not more than two (2) sides, i.e., a three-sided sign equals two (2) signs.
- aa. **SPECIAL PURPOSE SIGNS.** Any other temporary signs.
- bb. **STREET BANNERS.** Fabric signs, suspended across public streets advertising a public entertainment or event. The location and contents of each street banner must be specially approved by the county road commission.
- cc. **TEMPORARY SIGN.** A display, informational sign, banner or other advertising device intended for a limited period of display, including any sign which can be physically lifted, pulled, carried or wheeled from one location to another.
- dd. **WALL SIGN, FLAT.** One affixed directly to or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.

**SHADOW FLICKER.** The moving shadow, created by the sun shining through the rotating blades of a wind energy system. The amount of shadow flicker created by a wind energy system is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

**SITE, AREA.** The total area within the property lines excluding rights-of-way, easements, etc.

**SITE CONDOMINIUM.** That portion of a condominium subdivision designed and intended for occupancy and use by the unit owner consistent with the provisions of the Master Deed. A condominium unit is not a lot or a parcel as those terms are used in this ordinance.

**SITE PLAN.** A scaled drawing and other required document necessary to ensure that a proposed land use or activity is in compliance with the Fairgrove Township zoning ordinance. When a site plan is approved by the Planning Commission, it becomes a part of the approval record and is enforceable with regard to the activity authorized.

**SOLAR ENERGY FACILITY.** An energy facility or an area of land principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems. This definition shall only include those facilities that primarily sell electricity to be used off-site.

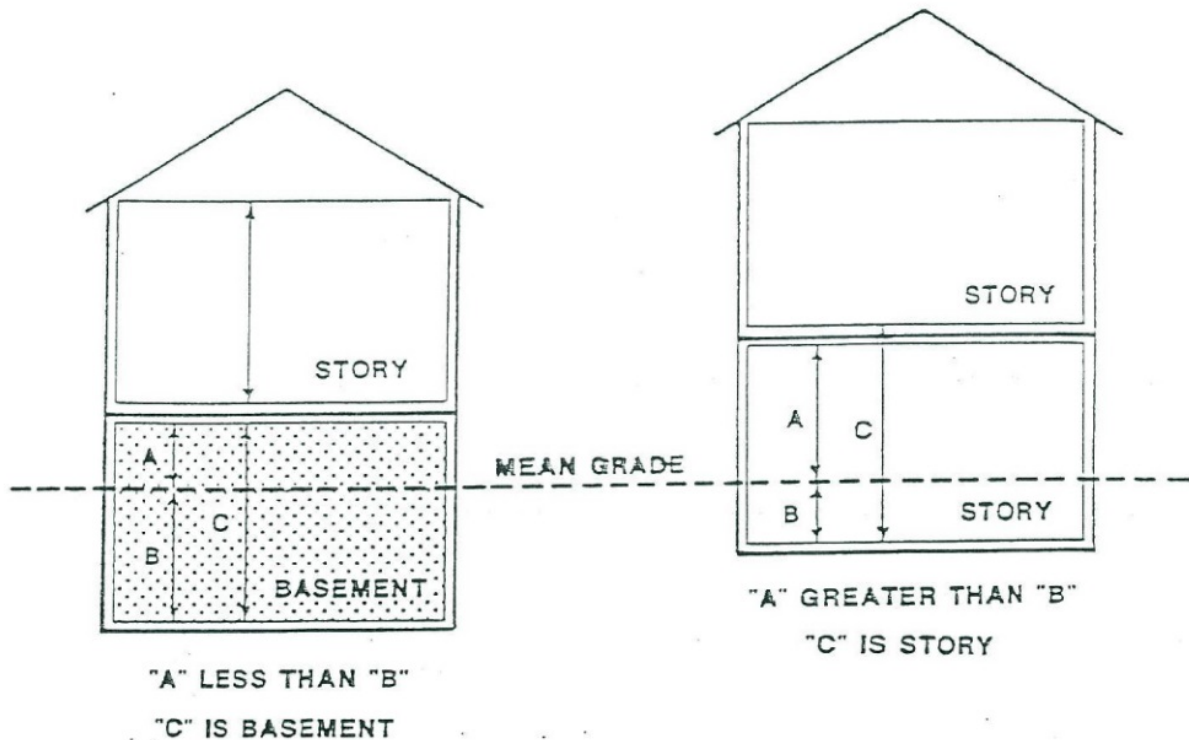
**SOUND PRESSURE:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

**SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

**SPECIAL LAND USE.** A use which may be permitted by the application for and issuance of a Special Land Use Permit by the Planning Commission. Specified procedures and requirements pursuant to state law, as outlined in Chapter 7, Special Land Use Permits, must be complied with prior to issuance of said permit. A Special Land Use Permit may be issued only for those uses specifically cited in this ordinance or as interpreted by the Board of Zoning Appeals.

**STATE LICENSED RESIDENTIAL FACILITIES.** Facilities which provide resident services for six (6) or less persons under 24 hour supervision or care. Such facilities are licensed pursuant to Act No. 287 of 1972 and Act 116 of 1973.

**STORY.** That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story. (See Figure 7.)



**Figure 7: Story**

**STREET.** A public, dedicated right-of-way which affords access to abutting property or provides for circulation of vehicular traffic.

**STREET, FUNCTIONAL CLASSIFICATION.** Functional classification is the process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide. Three (3) basic groups include: (1) Arterials primarily for mobility, (2) collectors for both mobility and land access, and (3) locals primarily for land access.

- a. **PRINCIPAL ARTERIAL.** Serves the major center of activity of the region, the highest traffic volume corridors, and the longest trip desire.
- b. **MINOR ARTERIAL.** Interconnects with and augments the principal arterial system and provides service to trips of moderate length at a somewhat lower level of travel mobility than principal arterials.

- c. **COLLECTOR.** Collector system provides both land access service and for local traffic movements within residential neighborhoods, commercial areas and industrial areas.
- d. **LOCAL.** Serves as direct land access and access to higher systems.

**STREET LINE.** The legal line of demarcation between a street right-of-way line and land for service, benefit or enjoyment.

**STRUCTURE.** Anything constructed, assembled or erected, the use of which requires location the ground or attachment to something having location on or in the ground. The word “structure” shall not apply to wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground.

**SUBDIVISION.** The division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease offer, or development (immediate or future).

**TAVERN.** An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

**TEMPORARY USE.**

- a. **Temporary Building Use.** A use in a temporary or permanent structure, established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period granted in the temporary use permit.
- b. **Temporary Outdoor Use.** A use carried out in an open area or uncovered or temporary structure, which is disbanded when the designated time period, activity or use for which the temporary structure was erected, has ceased.

**TIP HEIGHT.** When referring to a Wind Energy System, the distance measured from ground level to the furthest vertical extension of the rotor.

**TOURIST HOME.** See definition for “Bed and Breakfast Inn.”

**U-PICK OPERATION.** A U-pick operation is a farm that provides the opportunity for customers to harvest their own farm products directly from the plant. Also known as pick your own or PYO, these are forms of marketing farm products to customers who go to the farm and pick the products they wish to buy.

**USE.** The purpose for which land or building is designed, arranged, or intended to be used, or for which land or building is or may be occupied.

**USE, ACCESSORY.** See definition of “Accessory Use.”

**UTILITY-GRID WIND ENERGY SYSTEM.** A wind energy system that is designed and built to provide electricity to the electric utility grid.

**VARIANCE.** A modification of the literal provisions of this Zoning Ordinance, granted by the board of appeals on zoning, when strict enforcement thereof would cause undue hardship owing to circumstances unique to the specific property on which the modification is granted.

**VEHICLE.** Any device in, upon, or by which any person or property is or may be transported or drawn upon any street, highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

**VETERINARIAN.** One qualified and authorized to treat diseases and injuries of animals.

**VISUAL SCREEN.** A method of shielding or obscuring one abutting structure or use from another by fencing, walls, berms or densely planted vegetation.

**WHOLESALE BUSINESS.** A wholesale business is an enterprise which buys and/or repackages products for sale to retail businesses. Inventory of a wholesale business is stored within an enclosed building.

**WIND ENERGY SYSTEM.** An energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

**WIND SITE ASSESSMENT.** An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

**WIRELESS COMMUNICATION FACILITIES.** A radio, telephone, cellular telephone or television relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunications signals. Regulations for this use are further described in Chapter 6 of this zoning ordinance, including the maximum allowed height.

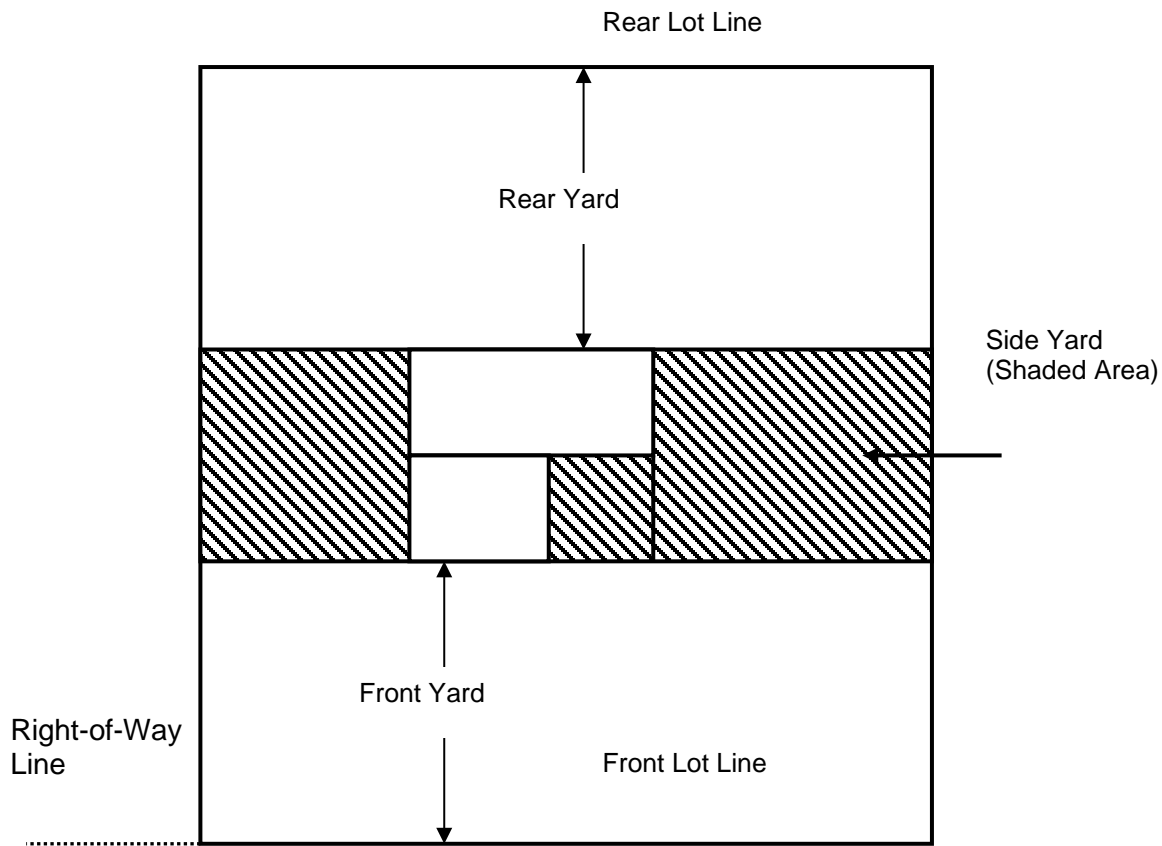
**YARD.** A space open to the sky and unoccupied or unobstructed, except by encroachments specifically permitted by this ordinance, on the same lot with a building or structure. A required yard is measured between the applicable lot line and the nearest foundation line of a building or structure.

**YARD, FRONT.** A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the building or structure. In the case of a waterfront lot, the yard on the street side shall be the front yard (see Figure 8).

**YARD REAR.** A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building (see Figure 8).

**YARD, SIDE.** A yard between the nearest point of the main building and any sideline.

**ZONING ACT.** The Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.



**Figure 8: Types of Yards**

**ZONING ADMINISTRATOR.** The zoning administrator is the official charged with administering this ordinance. The zoning administrator is appointed by the Township Board of Trustees with the advice of the planning commission. The zoning administrator may be compensated at a rate or amount determined by the Township Board of Trustees.

**ZONING BOARD OF APPEALS.** The Fairgrove Township Zoning Board of Appeals created under the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

**ZONING DISTRICT.** A portion of the Township within which certain uses of land or buildings are permitted and within which certain regulations and requirements apply under this ordinance. This term is synonymous with the term “District.”

**ZONING VARIANCE** Is a modification of the literal provisions of this Zoning Ordinance granted by the Board of Zoning Appeals when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the specific parcel of property on which the variance is granted. Variances may only be permitted by the Zoning Board of Appeals pursuant to an application for a variance and pursuant to the requirements and limits in Chapter 8, Administration of this Ordinance.

## **Chapter 3 – General Requirements**

### **Section 3.1 – Purpose of General Requirements**

It is the purpose of this chapter to establish general requirements applicable to all uses of land and structures in this Zoning Ordinance, except as otherwise specifically identified herein.

### **Section 3.2 – Effect of Zoning**

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

### **Section 3.3 – Substandard Lots**

Any lot or parcel created and recorded prior to the effective date of this Zoning Ordinance may be used even though the lot does not comply with the dimensional requirements of this Zoning Ordinance, provided:

- a. That a proposed building, structure, or use for the lot satisfies the yard requirements set forth in Chapters 5 through 8 of this Zoning Ordinance to the greatest extent possible.
- b. That the requirements set forth in Section 3.3 of this Chapter are fulfilled.

### **Section 3.4 – Required Water Supply and Sanitary Sewerage Facilities**

No structure shall be erected, altered, or moved upon any parcel for use as a dwelling, office, business, industry, or public facility unless it is provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, or industrial waste. All such installations and facilities shall conform with the requirements of the Health Department and applicable state agencies and all applicable permits authorizing said facilities shall be obtained. The owner or applicant for any zoning permit shall demonstrate the availability of potable water and public sewer connections or adequate space for septic fields with appropriate reserve areas and setbacks specific to site conditions, but in no case shall a septic field be closer than ten (10) feet to a lot line.

### **Section 3.5 – Intent for Non-Conforming Lots, Uses, and Structures**

It is the intent of this section to provide for the use of lands, buildings, and structures which were lawfully established prior to the effective date of this ordinance to continue even though the use may be prohibited or differently regulated under the terms of this ordinance.

Such nonconforming lots, uses of land, structures, and uses of structures and premises are declared by this ordinance to be incompatible with permitted conforming uses, buildings, and structures. In order to adequately regulate the conflicts between conforming and nonconforming uses, buildings, and structures, the regulations that follow are enacted.

- a. Nonconforming Lots

1. Any lot or parcel created and recorded prior to the effective date of this ordinance may be used even though the lot does not comply with the dimensional requirements of this ordinance providing the Lot or parcel meets the requirements of Section 3.2 Substandard Lots.

b. Non-conforming Uses of Land

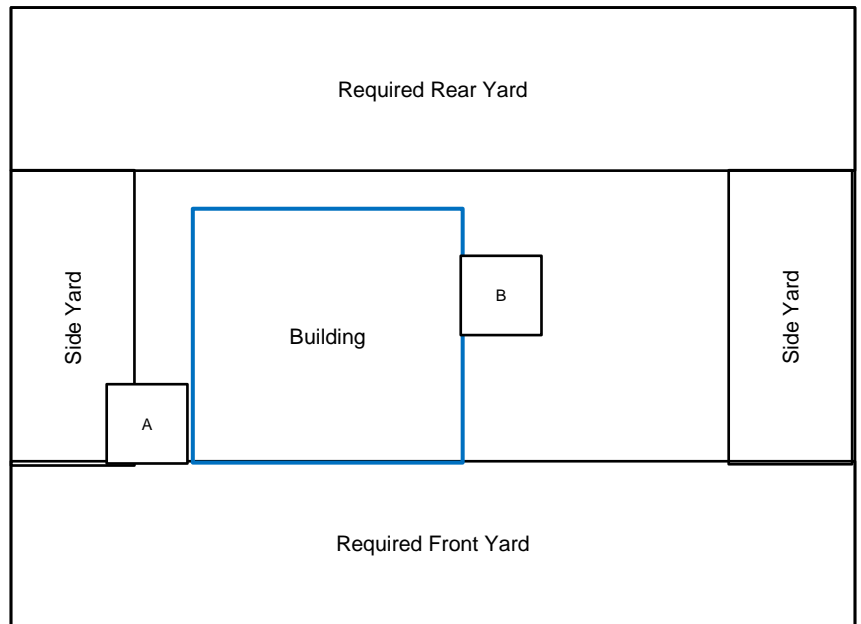
Where, at the effective date of adoption or amendment of this ordinance, lawful uses of land exist that thereafter become nonconforming under the terms of this ordinance, such use may be continued so long as it remains otherwise lawful.

c. Nonconforming Structures

When a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions (See Figure 1):

1. No such structure may be enlarged or altered in a way which increases its non-conformity.
2. Should such structure be destroyed by any means to an extent of more than sixty percent (60%) of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
3. Should such structures be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the area in which it is located after it is moved.

**Figure 1 – Nonconforming Structures:** Proposed addition “A” not permissible unless authorized by variance as it increases non-conformity. Proposed addition “B” permissible without variance as it does not increase non-conformity.



d. Nonconforming Uses of Structures and Land

If a lawful use of a structure, or of structures, and land in combination exists at the effective date of adoption or amendment of this ordinance, and that use would not be allowed in the area under the terms of this ordinance, that use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed in that condition at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside of such building.
3. In any district, if no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another nonconforming use of the same or a more restricted classification provided that the Zoning Board of Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the area than the existing nonconforming use.

In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this ordinance. Where a nonconforming use of a structure, land, or land with structure is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification.

4. Any structure, or structure and land in combination in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the area in which the structure is located, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceased to exist for twelve (12) consecutive months, the structure, or structure and premises in combination, shall be considered abandoned and shall not thereafter be used except in conformance with the regulations of the area in which it is located.

e. Repair and Replacement of Non-Conforming Structures

On any building devoted in whole or in part to any nonconforming use, ordinary maintenance may be done. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such appropriate official.

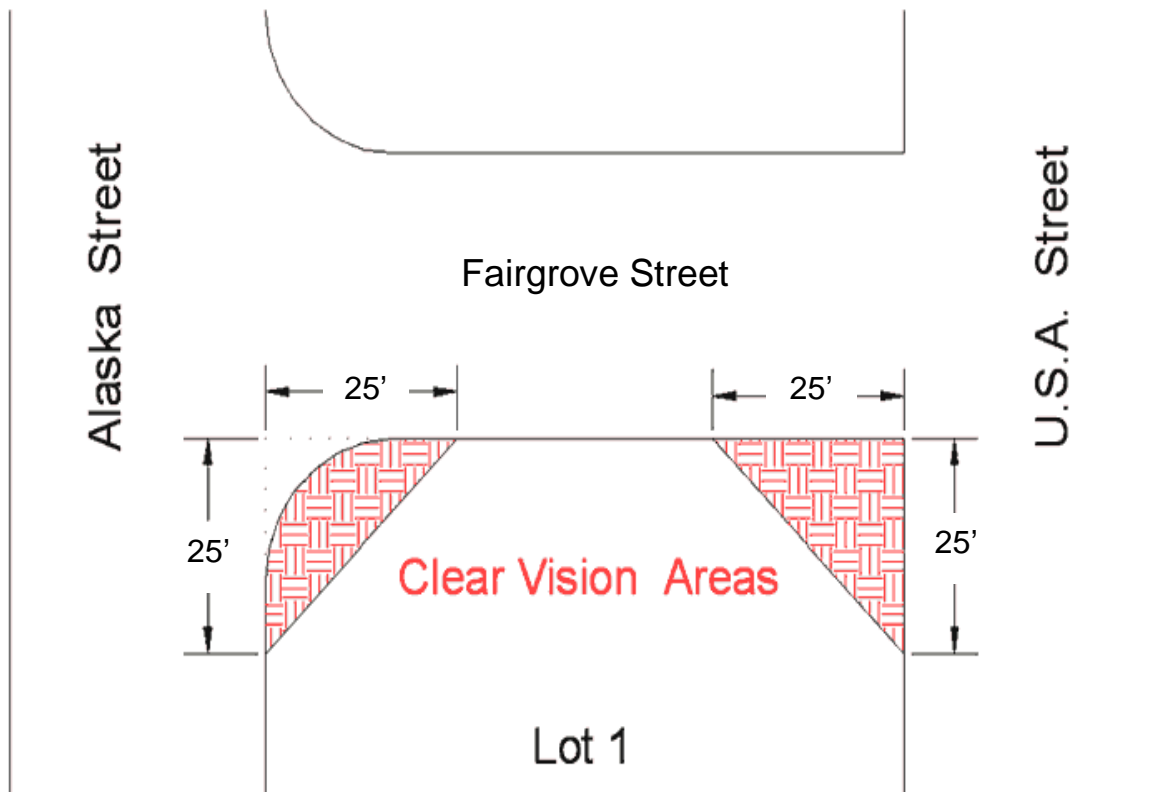
f. Change of Tenancy or Ownership

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures, and premises provided there is no change in the nature and/or character of such nonconforming uses.



### Section 3.6 – Corner Clearance

In all districts, no fence, wall, shrubbery, crops, signs, or other obstructions to vision shall be permitted above a height of thirty inches (30") from the established street grades in any district within a triangular area formed by the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five feet (25') from their point of intersection. An example of this provision is shown in the following diagram.

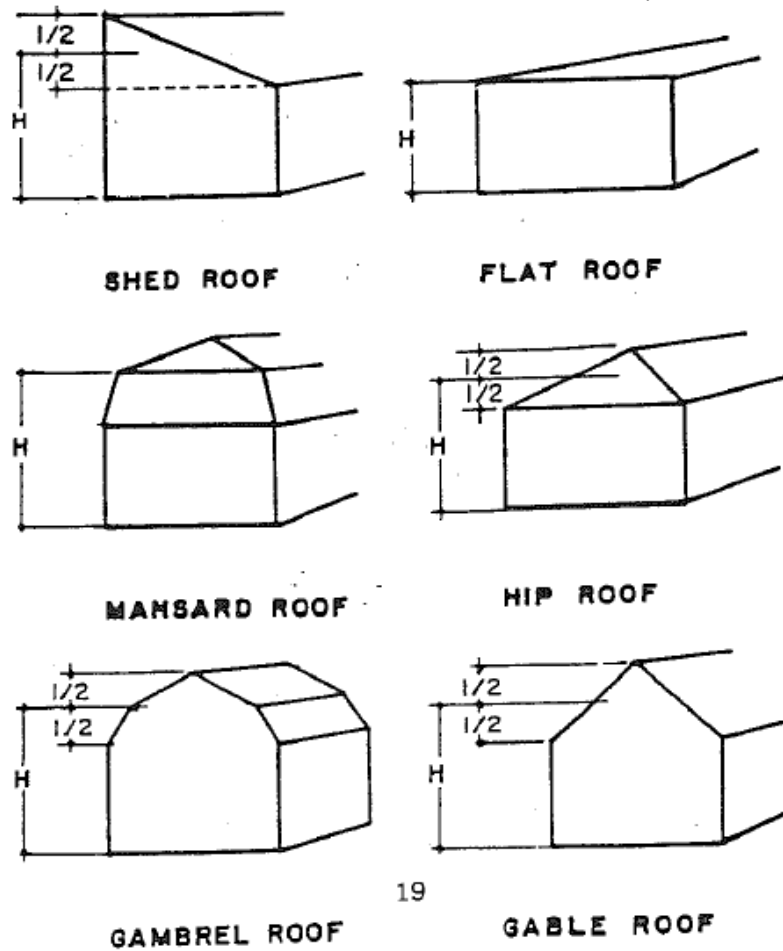


### Section 3.7 – Accessory Buildings

Accessory buildings, except as otherwise permitted in this ordinance shall be subject to the following regulations:

- a. For the purposes of this section, all agricultural buildings shall be considered as accessory buildings that are accessory to the principal use of the land for agricultural regardless of whether or not a residence is associated with an accessory building,
- b. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to the main building.

- c. Buildings accessory to residential buildings in the R-1 Residential District, shall not exceed one story or thirty feet (30') in height as shown on the following diagram and may not occupy more than twenty-five percent (25%) of a required yard, plus forty percent (40%) of any required rear yard.
- d. No detached accessory buildings in R-1 Residential Districts shall exceed one (1) story or eighteen feet (18') in height as defined in Chapter 2, Definitions and shown on the following diagram, except that farm accessory buildings are exempt from the requirements thereof.



- e. No detached building accessory to a residential building shall be located closer than ten feet (10') to any main building. In no instance shall an accessory building be located within a dedicated easement or right-of-way.
- f. When a building accessory to a residential building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot.

- g. Accessory buildings shall not be used for commercial purposes.
- h. All accessory buildings shall be set back from all lot lines a minimum distance to be determined as follows:
  - 1. Except for agricultural accessory buildings, an accessory building shall be a minimum of five feet (5') from any property line or one times the height of the building, whichever is greater. An agricultural accessory building shall be at least ten (10') from any property line.
  - 2. Notwithstanding provisions of a. and b. hereof, all accessory buildings used in any way at any time as animal or poultry shelters shall have a minimum setback of at least ten feet (10').
- j. Storage containers (SC) and semi-truck trailers (STT)
  - 1. Storage containers and semi-truck trailers are allowed as an accessory building in the following zoning districts:
    - i. Agricultural
    - ii. Rural Residential
    - iii. Business
    - iv. Manufacturing
  - 2. A zoning permit is required.
  - 3. SC and STT shall be set back from the property line 5' or the height of the structure, whichever is greater.
  - 4. SC and STT shall be set back from a home a minimum of 10'.
  - 5. No setback is required from other accessory structures.
  - 6. The maximum number of combined units on any parcel is 3. If the parcel is zoned Rural Residential, the maximum number of combined units shall be 2.
  - 7. SC and STT accessory to residential buildings shall not be erected or placed in any required yard space, except the rear yard.
  - 8. Maximum height of a SC or STT is 18'.
  - 9. Storage containers and semi-truck trailers shall not be stacked.
  - 10. The maximum combined footprint of all SC and STT is 1,000-square feet in the Agricultural, Business, and Manufacturing districts.
  - 11. The maximum combined footprint of all SC and STT is 500-square feet in the Rural Residential district.

12. All storage containers and semi-truck trailers used as storage units must be structurally sound, be in good condition, have a good appearance, and be well maintained with grass mowed and trimmed around the exterior.
13. A semi-truck trailer used for accessory building purposes shall be unlicensed and not moved more than once a year.
14. All storage containers and semi-truck trailers are to be used by the property owner as storage units only. Under no circumstances shall they be used for human habitation or for animal shelters.

### **Section 3.8 – Performance Standards**

Standards of use, occupancy, and operation are hereby established as the minimum requirements to be maintained for all land uses and all zoning districts if they are otherwise legal in that district:

- a. Visual Distractions - The open storage of industrial equipment, vehicles, and all materials - including wastes - shall be screened from public view, from a public street, and from adjoining properties by an enclosure consisting of an obscuring fence not less than six feet (6') in height or the height of the equipment, vehicles, and all materials to be stored.
- b. Noise and Vibration - Objectionable noise and vibration, including those of an intermittent nature, are prohibited from adversely affecting adjacent properties. A noise level of not more than 80 dBA for more than a half an hour in an eleven-hour period as measured from the property line, shall be maintained from 9 p.m. to 6 a.m., except that construction or agricultural equipment are exempt from this limitation.
- c. Odor and Gaseous Discharges - Smoke, odor, and/or gaseous discharges, toxic or corrosive fumes, or other odorous materials are not permitted in such quantities as to be offensive at or beyond any boundary of the parcel on which it originates. This is not intended to affect any other legality under state statutes.
- d. Light and Glare Control - Light from parking lights, yard lights, signs, or other similar sources shall be designed to shine on the parcel on which they are located and shielded from adjacent properties in such a manner that they are not a nuisance for those adjacent properties.
- e. Waste and Rubbish Dumping - No garbage, sewage, filth, refuse, waste, trash, debris, or rubbish - including cans, bottles, waste paper, cartons, boxes and crates, or other offensive or obnoxious matter - shall be kept in open containers, or piled, placed, stored, or dumped on any land within the township in such a manner as to constitute a nuisance, a hazard to health, safety, or morals, or general welfare of the community or its residents. All waste material, trash, and rubbish must be disposed of at least once in each month in accordance with the laws and ordinances of the community and provided further that nothing contained in this ordinance shall prevent the reasonable use of garbage, fertilizers, manure, or similar material for the improvement of land situated within a zone which is being utilized for agricultural purposes as long as such use does not constitute a menace to the health or welfare of the public or nuisance to the surrounding area. Any such use for agricultural purposes that includes the storing, piling,

placing, or dumping of the above-mentioned materials from other than one household or business shall be deemed to be a commercial operation whether or not such operations are carried on for a profit and in such cases shall adhere to Michigan Public Statutes dealing with solid waste management.

### **Section 3.9 – Use Restrictions**

No portion of a lot or parcel used once in complying with the provisions of this ordinance for yards, lot area, density, or percentage of lot occupancy shall again be used as part of the lot or parcel required in connection with any other building or structure existing or intended to exist at the same time.

### **Section 3.10 – General Exceptions as to Area, Height, and Use**

The regulations of this ordinance shall be subject to the following general interpretations and exceptions:

- a. Essential Services. Essential services shall be permitted as authorized and regulated by law and other ordinances of the township, it being the intent to exempt such essential services from the application of this ordinance.
- b. Voting Place. The provisions of this ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with any local, state, federal, or other public election.
- c. Height Limit. The height limitations of this ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, or wireless transmission towers, unless provided as a condition of a Site Plan Review or Special Land Use Permit.

### **Section 3.11 – Multiple Dwelling Side Yard**

For the purpose of side yard regulations, a row house, townhouse, condominium, apartment, or other multiple dwelling shall be considered as one or more buildings occupying a single lot.

### **Section 3.12 – Fences, Walls, and Hedges**

Fences are permitted, or required subject to the following:

- a. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six (6) feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard setback whichever is greater.
- b. Fences in residential districts shall not contain barbed wire, razor wire, or be charged with electricity in any fashion.
- c. Fences in business and manufacturing districts shall not exceed eight (8) feet in height measured from the surface of the ground. Provided, however, that upon application and good cause shown the Planning Commission may authorize suitable fencing of any height the Commission determines to be reasonable under the facts and circumstances

presented by the applicant.

- d. Fences used in public or institutional parks, playgrounds, or public landscape areas situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground and shall not obstruct vision to an extent greater than twenty-five (25%) percent of their total area.
- e. It shall be the obligation and sole responsibility of persons erecting fences in this township to determine the location of property lines. The township shall not determine property or lot lines, and the issuance of a fence permit shall in no way be construed as a determination of the correct, valid or legal location for the fence, or prejudice, in any way, the rights of adjacent or abutting property owners.
- f. The regulations set forth in this section shall not apply to fences erected on lands in Agricultural districts, the primary use of which land is the operation of a farm as herein defined.

### **Section 3.13 – Access through Yards**

Access drives may be placed in the required front and/or side yards so as to provide access to rear yards and/or accessory to attached structures. These drives shall not be considered structural violations. Further, any walk, terrace, or other pavement servicing the like function, and not in excess of nine inches (9”) above the grade upon which it is placed, shall not be considered a structure and shall be permitted in required yards.

### **Section 3.14 –Projections into Yards**

Architectural features, not including vertical projections, may extend or project into a required front or rear yard for not more than three feet.

### **Section 3.15 – Control of Pets**

Pets, as defined in Chapter 2, Definitions, shall be controlled so that they do not infringe on adjacent properties so that they are not a nuisance with frequent barking, and so that they do not create noxious conditions through unsanitary conditions or odor.

### **Section 3.16 – Home Occupation**

A home occupation business, as defined in Chapter 2, Definitions, may be operated only under the following conditions:

- a. It is operated in its entirety within the principal dwelling or within a normally associated accessory building.
- b. It does not include more than one employee who does not live in the dwelling.
- c. It does not involve alteration or construction not customarily found in a dwelling unit.
- d. It does not use more than twenty-five percent (25%) of the total floor area of the dwelling, exclusive of an unfinished basement.

- e. It does not display, or create outside the structure, any external evidence of the operation of the home occupation except for one unanimated, non-illuminated wall sign having an area of not more than six square feet.

### **Section 3.17 – Dish Antennas**

- a. Dish antennas more than four feet (4') in diameter is permitted shall require a permit prior to erection. The zoning administrator may require construction drawings showing the proposed method of installations such as anchoring, fencing, and screening. Fees for such a permit shall be established by the Board of Trustees.

### **Section 3.18 – Swimming Pool and Pond Safety Requirements**

Because of the health and safety dangers, including drowning or water accidents, the township hereby regulates swimming pools and manmade ponds. Swimming pools shall be erected, installed, or made only in rear yards of any lot. Ponds may be constructed as otherwise provided herein. The following regulations apply to swimming pools and manmade ponds erected, installed, or made in the township:

- a. Above-Ground Pools - Above-ground pools that have a wall height of no less than forty-two inches (42") between the ground and the top of the wall, or a surrounding fence shall not require any additional fence around the pool site. Fences shall have self-closing and locking gates or doors to prohibit casual access by small children. Said above-ground pools, however, must have a removable ladder that is to be taken from the pool whenever the pool is not in use under adult supervision. A ladder that is permanent, but has a restraint device that can be used to prohibit access and can be locked is an acceptable alternative to a removable ladder.
- b. In-Ground Pools - In-ground pools shall meet the following requirements:
  - 1. All such pools constructed shall be completely enclosed by a fence at least four feet in height and of a type not readily climbed by young children. The bottom of the fence shall be so constructed that children cannot readily crawl under the fence.
  - 2. The fence shall be constructed to surround the swimming pool providing that it is not closer than four feet (4') nor further than thirty feet (30') from the pool's edge, or at the edge of the apron surrounding the pool. A dwelling house or accessory building may be used in lieu of a fence.
  - 3. The fence shall have at least one opening with a gate, which shall be equipped with a self-closing latch.
  - 4. If lighting is to be provided in a residential area, the lighting shall be so arranged, shielded and operated so as to prevent disturbance or annoyance to neighboring premises.
  - 5. In-ground pools shall not be constructed closer than ten feet (10') to any adjacent property line.

6. Ponds, which are allowed when a Special Land Use Permit is approved, shall be constructed completely within the buildable area of the lot and shall not infringe on any front, rear or side yards required in the respective zoning districts. Ponds shall conform to the requirements of Section 711.

### **Section 3.19 – Prohibition of Marihuana Establishments**

- a. Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the “Act”), are prohibited in all zoning districts.
- b. No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to the enactment of Section 3.18 of the Fairgrove Township zoning ordinance, shall be deemed to have been a legally established use under the provisions of the Fairgrove Township zoning ordinance; that use shall not be entitled to claim legal nonconforming status.
- c. Violations of this section are subject to the violations and penalties pursuant to Chapter 8 and may be abated as nuisances.
- d. This section does not supersede rights and obligations with respect to the transportation of marihuana by marihuana secure transporters through Fairgrove Township to the extent provided by the Act and does not supersede rights and the regulations with respect to medical marihuana facilities established pursuant to the Michigan Medical Marihuana Act.
- e. Conflict and Repeal. All ordinances or parts of ordinances in conflict with Section 3.18 of the Fairgrove Township zoning ordinance are repealed.

### **Section 3.20 – Excavations or Holes**

The construction, maintenance, or existence within the township of any unprotected, unbarricaded, open or dangerous excavations, holes, pits, or wells, which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare are hereby prohibited; provided, however, this section shall not prevent any excavation under a permit issued, pursuant to this ordinance, by the Planning Commission by special land use, which such excavations are properly protected and warning signs posted in such a manner as may be approved by the Zoning Administrator; and provided further, that this section shall not apply to streams, natural bodies of water or to ditches, streams, reservoirs, or other major bodies of water created or existing by authority of the State of Michigan, the County, the Township, or other governmental agency.

### **Section 3.21- Substandard Dwelling Occupancy During Construction of a Dwelling**

For the express purpose of promoting the health, safety and general welfare of the inhabitants of the township, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, garage- house, tent, camper, travel trailer, recreational vehicle, mobile home not installed according the requirements of this ordinance, or other substandard structure shall



hereafter be erected or moved upon any premises and used for dwelling purposes except under the following applicable conditions:

- a. The location shall conform to the provisions governing yard requirements of standard dwellings in the district where located.
- b. The use shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a dwelling conforming to the provisions of this ordinance is in process of erection and completion, repair, and remodel, but not to exceed twelve (12) months. One (1) additional twelve (12) month extension may be obtained from the Zoning Administrator. The substandard dwelling shall be removed upon completion of construction of a dwelling complying with the requirements of this ordinance.
- c. Installation of septic system and water well shall be constructed and maintained in accordance with the standards of materials and installation recommended by the Health Department, and shall precede occupancy of the substandard dwelling.
- d. Application for the erection and use of a substandard dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify in a space allotted for that purpose, and on the copy retained for filing by the township, that he/she has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person.
- e. No annexes or additions shall be added to temporary substandard dwellings.

### **Section 3.22 – Temporary Use of Recreational Vehicles as Dwellings**

Travel trailers, motor homes, and other similar recreational vehicles designed with sleeping accommodations shall not be occupied for transient purposes for a continuous period exceeding thirty (30) days per each ninety (90) day period unless connected to electrical service and Health Department approved sanitary facilities. Temporary occupancy of such vehicles connected to electrical and sanitary facilities shall not exceed ninety (90) days in any calendar year. Permits for temporary use shall be obtained from the Zoning Administrator.

### **Section 3.23 – Home Industry**

A home industry is a use permitted by right in the Agricultural District (A-1), provided:

- a. The owner or manager shall reside in the principal building and operate the home industry.
- b. The area of the home industry shall not exceed fifty (50%) percent of the floor area of the dwelling unit. Areas within accessory buildings (attached garages, storage buildings, etc.) shall not be considered part of the dwelling unit for purposes of calculating allowable home industry area but may be used for storage of goods associated with the home industry. The area within accessory buildings used for the purposes of a home

industry shall not exceed 2,400 square feet in total area.

- c. Accessory buildings used for the purposes of a home industry shall be located within 300 feet of the principal building.
- d. Junk materials, supplies, unassembled parts, and equipment shall be stored entirely within an accessory building.
- e. Vehicles and related equipment shall not be parked or stored within any required yards or setback areas of the lot or on adjacent streets.
- f. All hazardous wastes, by-products and emissions must be stored and/or disposed of in conformance with Federal, State, local regulations.
- g. Sales shall be limited to items produced on-site, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps, and antiques.
- h. No person shall create, operate, or cause to be operated as part of a home industry any source of sound in such a manner as to create a sound level that exceeds 65 dB(A) (weighted sound level) when measured from the nearest property line.
- i. All outdoor lighting used in association with the home industry shall be shielded to reduce glare and shall be arranged to direct light away from all adjacent properties, residences, and public rights-of-way.
- j. The following activities shall be prohibited as a home industry:
  - 1. Outdoor repair of any automobile, truck, or heavy equipment,
  - 2. Outdoor autobody work.
- k. No more than two (2) non-residents shall be employed in a home industry.
- l. On-site parking shall be provided as follows:
  - 1. One (1) parking space for each non-resident employee of the home industry, and
  - 2. One (1) parking space for customer parking.
- m. One (1) accessory free-standing sign is permitted on the premises with the following requirements:
  - 1. Not larger than thirty-two (32) square feet,
  - 2. Not exceed ten (10) feet in height, and
  - 3. Not posted within any required yard setbacks or right-of-way.

## **Chapter 4 – Zoning Districts**

### **Section 4.1 – Division of the Township into Zoning Districts**

For the purposes of this Ordinance, Fairgrove Township, Tuscola County, Michigan, excepting streets and alleys, is divided into the following zoning districts:

- a. A-1 – Agricultural Zoning District (Section 4.6)
- b. R-1 – Rural Residential Zoning District (Section 4.7)
- c. B-1 – Business Zoning District (Section 4.8)
- d. M-1 – Manufacturing Zoning District (Section 4.9)
- e. Wind Energy Overlay District (Section 4.10)

### **Section 4.2 – Official Zoning Map**

The boundaries of these zoning districts are hereby defined and established as shown on a map entitled “Zoning Map, Fairgrove Township, Michigan,” which map accompanies this ordinance. Said map, with all explanatory matter thereon, is hereby made a part of this ordinance. The official Zoning Map shall be kept and maintained by the Clerk of the Township.

### **Section 4.3 – Interpretation of Boundaries**

The following rules shall be used in interpreting the boundaries shown on the “Zoning Map, Fairgrove Township, Michigan:”

- a. Boundaries indicated as approximately following the streets or highways or the centerline of said streets or highways shall be construed as following said streets, highways or centerlines.
- b. Boundaries indicated as approximately following Township boundary lines, or as approximately following parcel or lot lines, shall be construed as following said lines.
- c. Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated by a given distance or scaled dimension.

### **Section 4.4 – Scope of Regulations**

No building or structure, or part hereof, shall hereafter be erected, moved, constructed, or altered, and no new land use made or changed in use shall be made unless in conformity with the provisions of this ordinance and with the regulations specified for the district in which it is located according to the “Zoning Map, Fairgrove Township, Michigan.”

The regulations applying to such districts include specific limitations on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimensions, and area of lot that can be covered by each structure.

The Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.

### **Section 4.5 – District Regulations**

The following sections identify the intent and purpose, uses permitted by right, and uses permitted by special land use permit, and the dimensional requirements for each zoning district of Fairgrove Township as identified in Section 4.1.

## **Section 4.6 – Agricultural District Regulations (A-1)**

### **Section 4.6a – Intent and Purpose**

This district is intended to protect those areas of Fairgrove Township with high-quality agricultural soils, and to permit-related agricultural land uses, and to provide limited development of estate-sized rural residential.

### **Section 4.6b – Uses Permitted By Right**

- a. Accessory Uses and Structures
- b. Religious Institutions
- c. General Farming for Cash Crops, Livestock, and Fiber Purposes
- d. Home Occupations
- e. Single-Family Dwellings
- f. Public Parks and Recreation
- g. Road Side Stands
- h. Schools and Cemeteries
- i. Seasonal Migrant Housing Meeting State Standards
- j. On-Site Wind Energy Systems (Free Standing or Structure Mounted)
- k. State-licensed residential facilities (adult foster care)
- l. Child care, whereby a residence is used for the care of children other than the occupant's own children for a period of less than 24-hours a day
- m. Home Industry, subject to the requirements described in Section 3.22
- n. Local establishments that produce a commercial product in which such operations are compatible with the neighborhood and is customarily supportive of agricultural and farming operations

### **Section 4.6c – Uses Permitted By Special Land Use Permit**

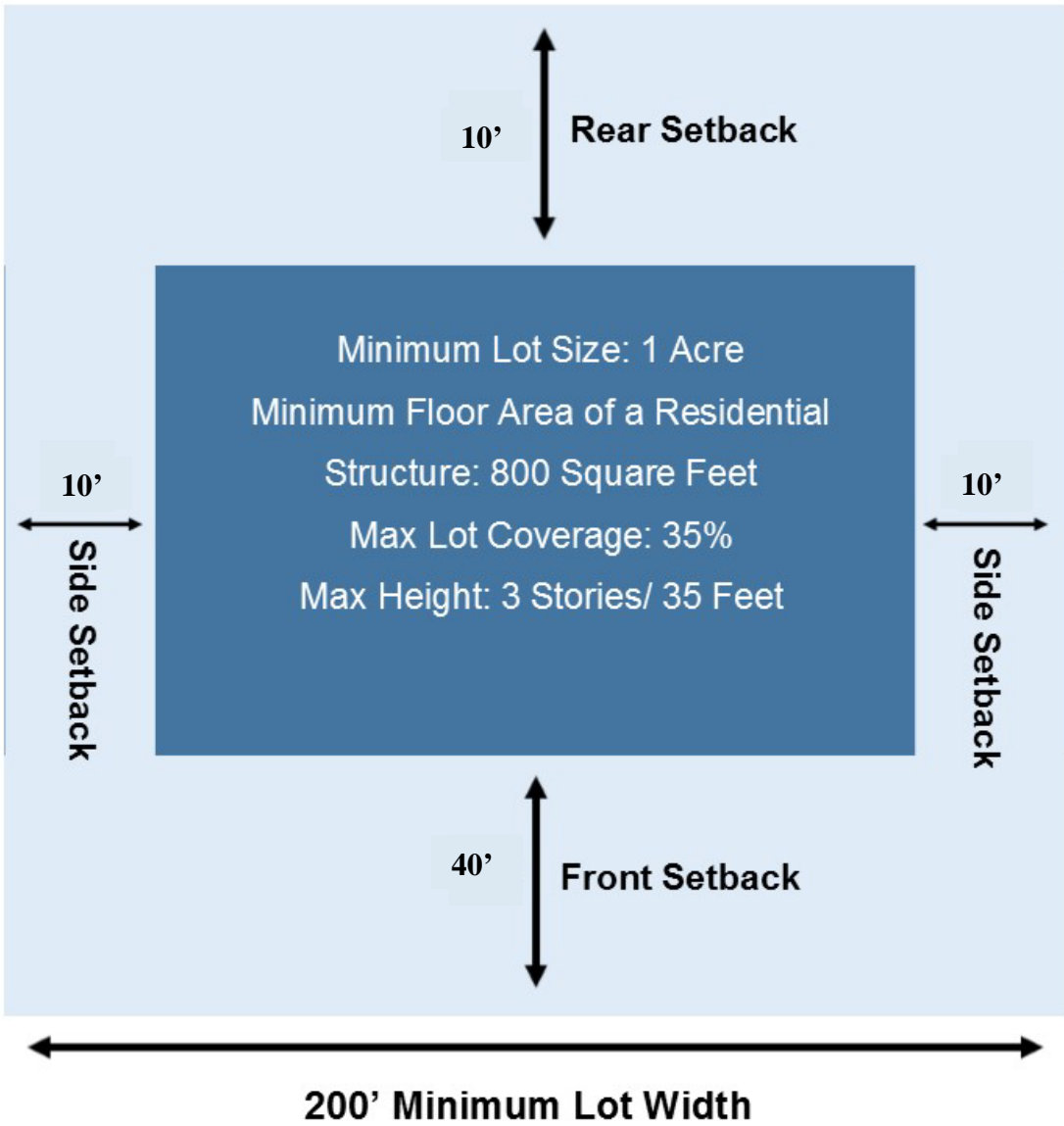
- a. Agricultural Storage, Terminals, and Processing Facilities
- b. Airports and Landing Strips
- c. Bed and Breakfast Inns
- d. Farm Equipment Sales/Service
- e. Soil Resource Extraction and Pond Construction
- f. Sanitary Landfills, Solid Waste Transfer Stations, Processing or Disposal Area & Junkyards
- g. Sewage Treatment & Disposal
- h. Veterinary Clinics & Kennels
- i. Outdoor firing range
- j. Solar Energy Facilities

Regulations for Special Land Uses are found in Chapter 7 – Special Land Use Permit Requirements.

### **Section 4.6d – Dimensional Requirements**

- a. Lot Area, Minimum – 1 Acre
- b. Lot Width, Minimum – 200 Feet
- c. Front Yard, Minimum – 40 Feet from the road right-of-way
- d. Rear Yard, Minimum – 10 Feet
- e. Side Yard, Minimum – 10 Feet each
- f. Corner Yard, Minimum – 40 Feet; both yards (Sec 303 – 25 Feet)
- g. Floor Area, Minimum – 800 square feet; Residential Structure
- h. Height, Maximum – 3 Stories/ 35 feet
- i. Lot coverage, Maximum Percent – 35%.
- j. Accessory Structures – Except for agricultural accessory buildings, an accessory building shall be a minimum of ten (10) feet from any property line or one times the height of the building, whichever is greater. An agricultural accessory building, not used for animal or livestock shelters, shall be at least ten (10) feet from any property line.
- k. Home- Follow R-1 setbacks (Section 6.4)

**A-1 Agricultural District**



## **Section 4.7 – Rural Residential District Regulations (R-1)**

### **Section 4.7a – Intent and Purpose**

This district is intended for dispersed residential development throughout the township on larger lots and better roads. It is intended for all utilities to be provided on-site.

### **Section 4.7b – Uses Permitted By Right**

- a. Accessory Uses and Structures
- b. Religious Institutions
- c. Farming for Cash Crops, Livestock, and Fiber Purposes
- d. Home Occupations
- e. Single-Family Dwellings
- f. Public Parks and Recreation
- g. Road Side Stands
- h. Schools, Libraries, and Cemeteries
- i. State-licensed residential facilities for six (6) or fewer persons
- j. Child care, whereby a residence is used for the care of six (6) or fewer children other than the occupant's own children for a period of less than 24-hours a day
- k. On Site Wind Energy Systems (Free Standing or Structure Mounted)

### **Section 4.7c – Uses Permitted By Special Land Use Permit**

- a. Bed and Breakfast Inns
- b. Golf Courses and Private Recreation Facilities
- c. Mobile Home Parks
- d. Multiple-Family Residential Units

Regulations for Special Land Uses are found in Chapter 7 – Special Land Use Permit Requirements.

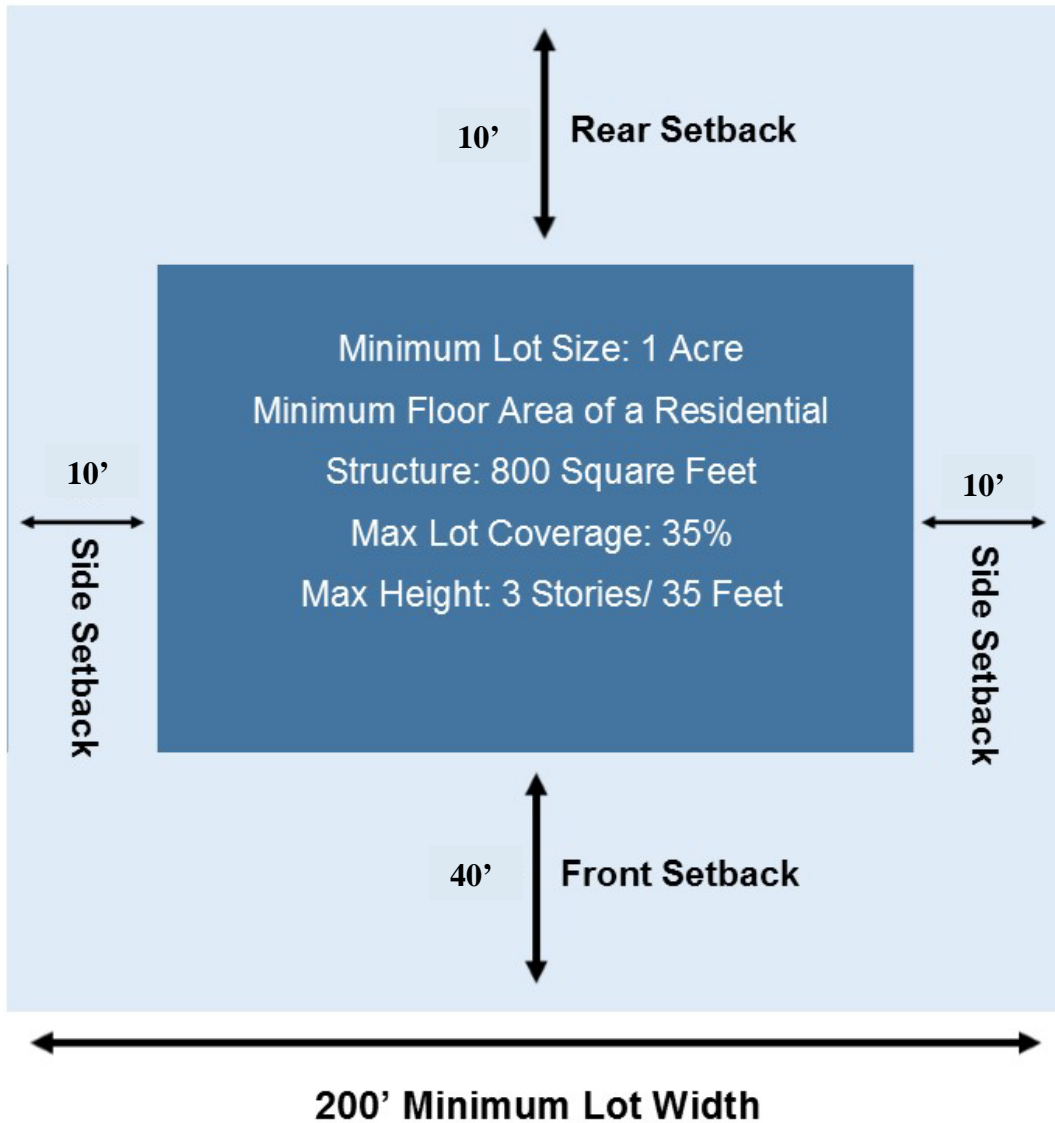
### **Section 4.7d – Dimensional Requirements**

- a. Lot Area, Minimum – One Acre
- b. Lot Width, Minimum – 200 Feet.
- c. Front Yard, Minimum – 40 Feet from the road-right-of-way.
- d. Rear Yard, Minimum – 10 Feet
- e. Side Yard, Minimum – 10 Feet each
- f. Corner Yard, Minimum – 40 Feet, both yards (Sec 303- 25 feet)
- g. Floor Area, Minimum – 800 sq. ft; Residential Structure
- h. Height, Maximum – 3 Stories/ 35 ft.
- i. Lot coverage, Maximum Percent – 35%.
- j. Accessory Structures – An accessory building shall be a minimum of five (5) feet from any property line or one times the height of the building, whichever is greater. An agricultural accessory building, not used for animal or livestock shelters, shall be at least ten (10) feet from any property line.

**Section 4.7e – Other Controls**

Temporary uses per Section 3.21 may be less than 800 square feet in floor area if approved by ZBA.

**R-1 Rural Residential District**





## Chapter 4.8 – Business District Regulations (B-1)

### Section 4.8a – Intent and Purpose

This district is intended for local area retail shopping, consumer services, offices, consumer convenience facilities, and related business uses including small-scale wholesale and warehouse activities.

### Section 4.8b – Uses Permitted By Right

- a. Accessory Uses and Structures
- b. Agricultural Storage, Terminals, and Processing Facilities
- c. Religious Institutions
- d. Farm Equipment Sales and Service, and Fiber Purposes
- e. Motels and Hotels
- f. One and Two Family Dwellings
- g. Office Buildings for Finance, Real Estate, Insurance, Law, & Medicine
- h. Personal Service Establishments such as Barber, Beauty, and Similar
- i. Restaurants (Not Drive-In/Thru)
- j. Retail Drug, Variety, Hardware, Clothing, Books, & Other Goods
- k. Retail Grocery, Meat, Produce, Bakery, and Other Foodstuffs
- l. On Site Wind Energy Systems (Free Standing or Structure Mounted)

### Section 4.8c – Uses Permitted By Special Land Use Permit

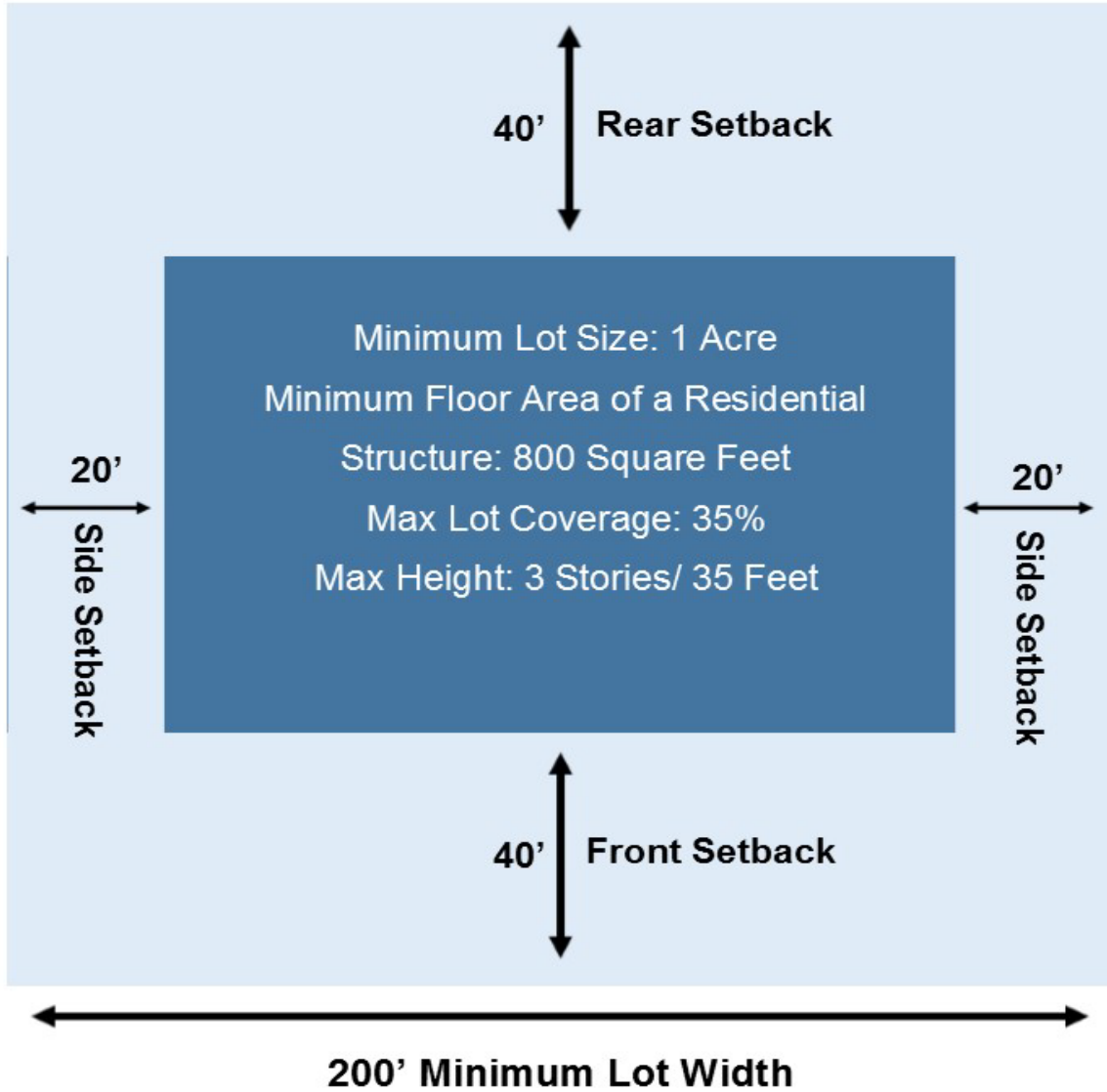
- a. Automobile Service Station, Repair, or Washing Facilities
- b. Building Supply, Warehouses, and Wholesale Businesses
- c. Commercial Recreation Uses such as Bowling, Pool Halls, Etc.
- d. Dealerships for New or Used Auto Sales and Service
- e. Drive-In or Drive-Thru Business Operations
- f. Institutional Uses for Human Care, Education, Social, Cultural, and Religious Purposes

Regulations for Special Land Uses are found in Chapter 7 – Special Land Use Permit Requirements.

### Section 4.8d – Dimensional Requirements

- a. Lot Area, Minimum – One Acre.
- b. Lot Width, Minimum – 200 feet.
- c. Front Yard, Minimum – 40 Feet from the road right-of-way.
- d. Rear Yard, Minimum – 40 feet.
- e. Side Yard – Minimum, 20 Feet each.
- f. Corner Yard, Minimum – 60 Feet, both yards.
- g. Floor Area, Minimum – 800 Feet; Residential Structure.
- h. Height, Maximum – 3 Stories/ 35 feet.
- i. Lot coverage, Maximum Percent – 35%.
- j. Accessory Structures – An accessory building shall be a minimum of five (5) feet from any property line or one times the height of the building, whichever is greater.

**B-1 Business District**



## Chapter 4.9 – Manufacturing District Regulations (M-1)

### Section 4.9a – Intent and Purpose

This district is intended for light industrial and related uses, including warehouses, wholesale businesses, trucking terminals, manufacturing, assembling, fabrication, and other light industrial uses.

### Section 4.9b – Uses Permitted By Right

- a. Accessory Uses and Structures.
- b. Agricultural Storage, Terminals, and Processing Facilities.
- c. Farming for Cash Crops, Livestock, and Fiber Production
- d. Manufacturing, Processing, Treatment, Assembling, Packaging,
- e. or Use of Previously Prepared Materials
- f. Trucking Terminals
- g. Warehouses.
- h. Wholesale Businesses
- i. On Site Wind Energy Systems (Free Standing or Structure Mounted)

### Section 4.9c – Uses Permitted By Special Land Use Permit

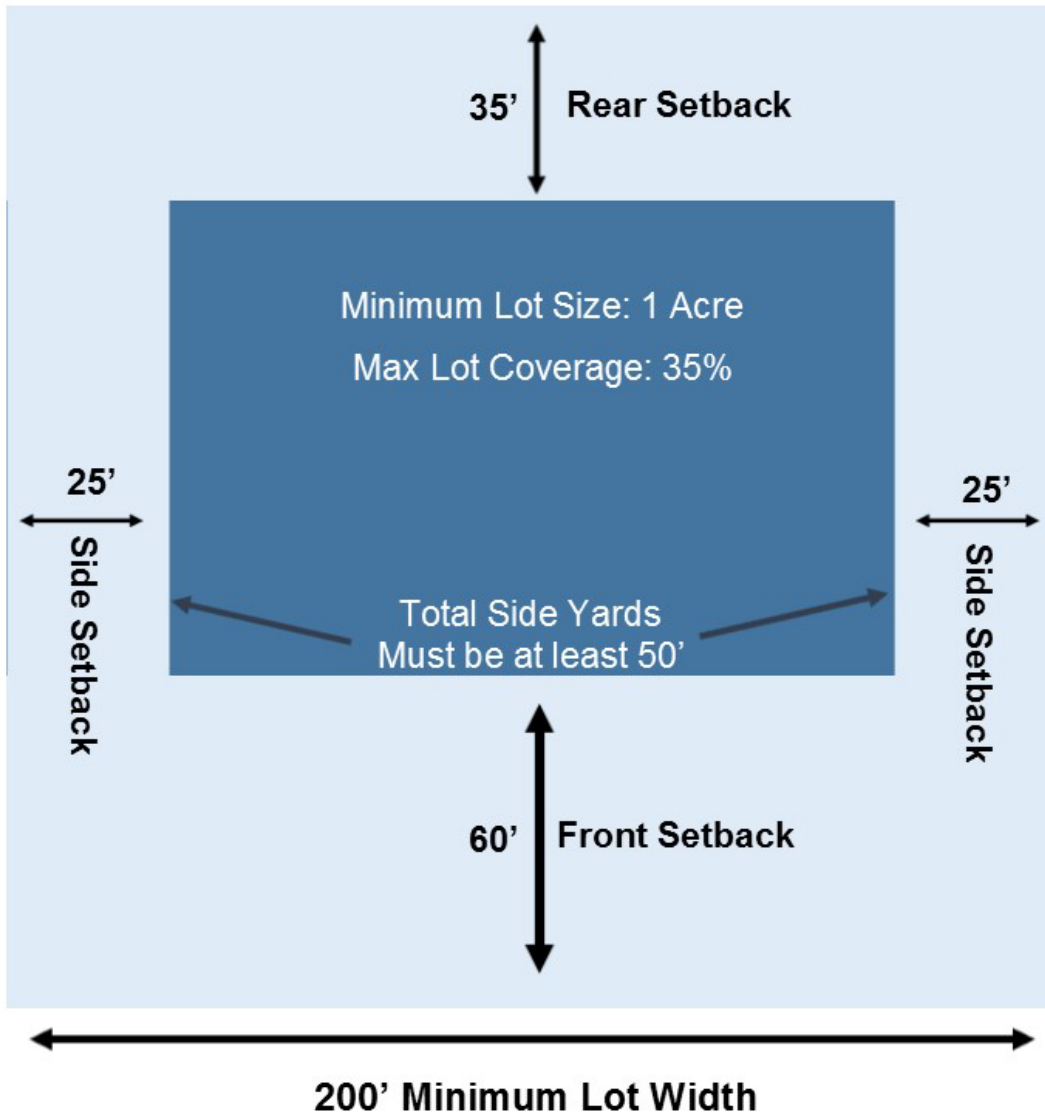
- a. Automobile Service Stations, Repair, or Washing
- b. Drive-In or Drive-Thru Business Operations
- c. Electrical Generating Plants
- d. Large Scale Primary Metal Industries Such as Foundries, Steel Mills
- e. Petroleum Refining and Chemical Manufacturing
- f. Sanitary Landfills, Solid Waste Transfer Stations, Processing, Recycling Facilities, Disposal Areas, and Junkyards

Regulations for Special Land Uses are found in Chapter 7 – Special Land Use Permit Requirements.

### Section 4.9d – Dimensional Requirements

- a. Lot Area, Minimum – One Acre.
- b. Lot Width, Minimum – 200 feet.
- c. Front Yard, Minimum – 60 feet from the road right-of-way.
- d. Rear Yard, Minimum – 35 feet
- e. Side Yard – 25 feet minimum, 50 feet total.
- f. Corner Yard, Minimum – 60 Feet, both yards
- g. Floor Area, Minimum – None required
- h. Lot coverage, Maximum Percent – 35%.
- i. Accessory Structures – An accessory building shall be a minimum of five (5) feet from any property line or one times the height of the building, whichever is greater.

## M-1 Manufacturing District



## Section 4.10 – Wind Energy Overlay District

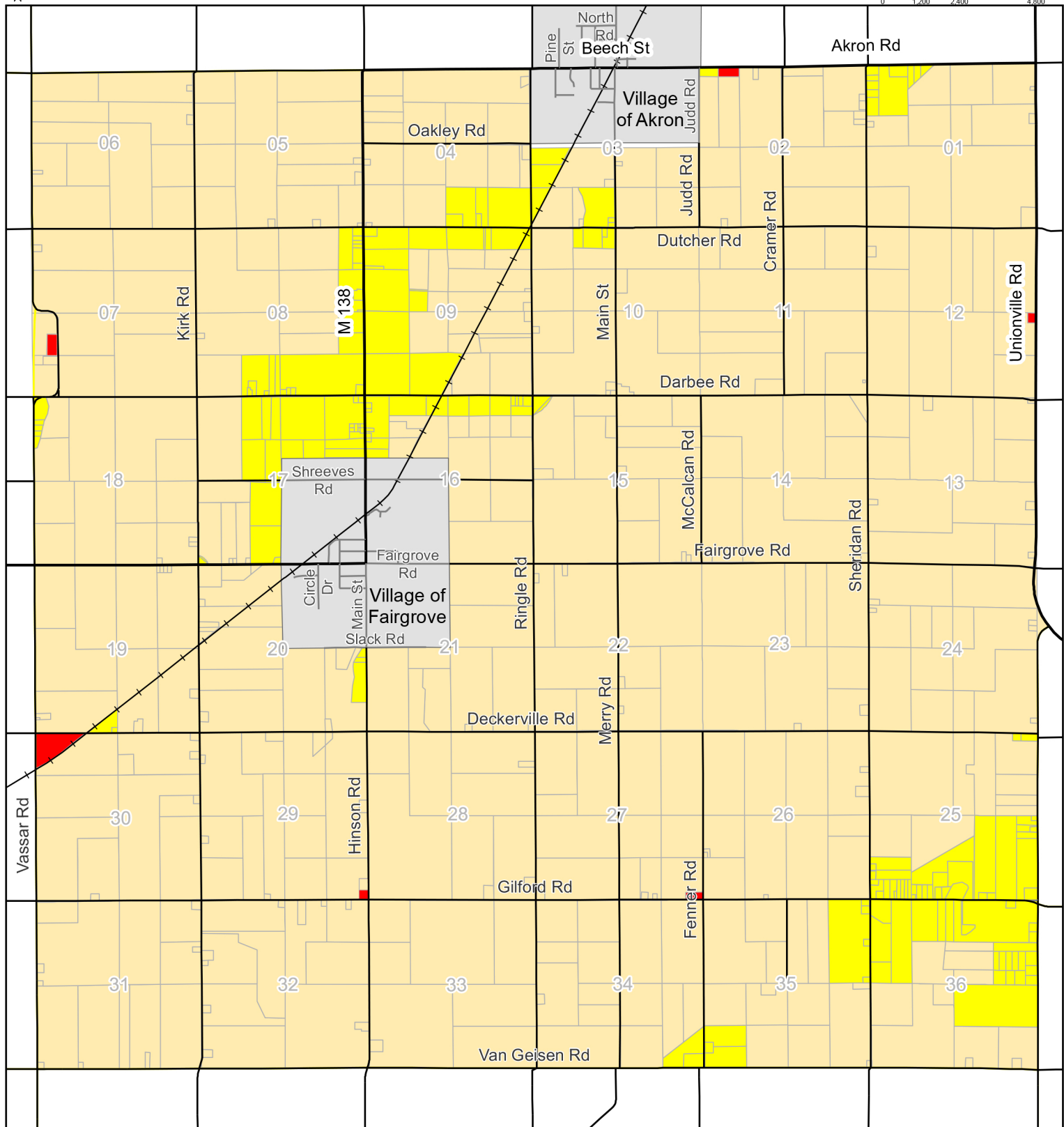
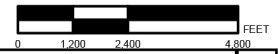
### Section 4.10a – Intent and Purpose

The entirety of Fairgrove Township is subject to the Wind Energy Overlay District. This overlay district permits the construction of Utility Grid Energy Systems, including anemometer towers, as a Special Land Use, described further in Section 708 of this zoning ordinance.

# ZONING

## FAIRGROVE TOWNSHIP

TUSCOLA COUNTY, MICHIGAN



**LEGEND**

- Agricultural
- Business
- Residential
- Manufacturing

The entirety of Fairgrove Township is subject to the Wind Energy Overlay District, described further in Section 410 of the Zoning Ordinance.



SAGINAW'S OFFICE  
 230 S Washington Ave  
 Saginaw, MI 48607  
 Tel. 989-754-4747  
 www.SpicerGroup.com

SCALE: 1" = 4,193'    DATE: 01/22

PATH: C:\USERS\CLAWSON\DOCUMENTS\ARC\GIS\PLAN\_8.5X11\_TEMPLATE\_SIMPLE\_OVERALL\_10.2\_EDITS.MXD. PRINTED ON: 6/23/2016. BY: CLAWSON\ML

## Chapter 5 – Off-Street Parking

### Section 5.1 – Application of Off-Street Parking Requirements

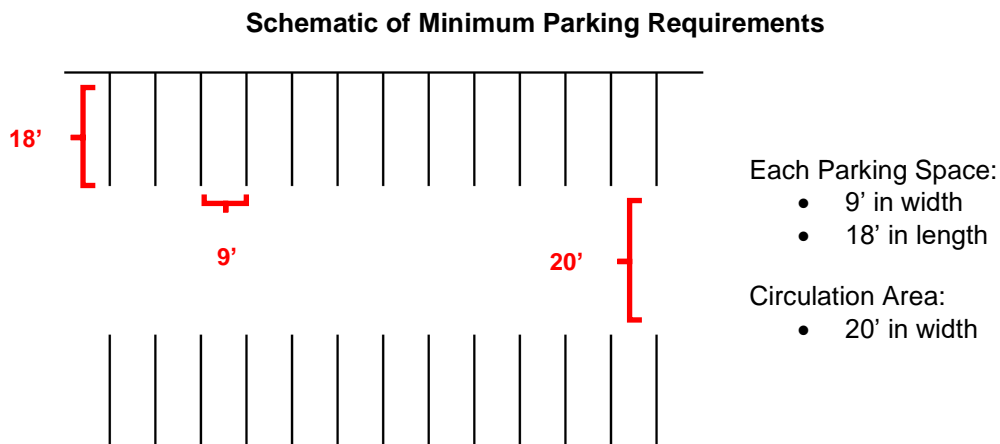
Any time a primary building or structure is erected, enlarged, or changed in use, the zoning administrator shall examine the need for off-street parking. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of certificate of occupancy. Off-street parking shall not be permitted in the required front or side yard setback. Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, as measured from the nearest point of the building to the nearest point of the off-street parking lot. Any area once required to meet minimum off-street parking shall not be changed to any other use unless or until equal facilities are provided elsewhere within 300'. The Zoning Board of Appeals may grant a variance to the application of these requirements upon a showing of reasonableness related to property or use conditions.

### Section 5.2 – Handicap Parking Requirements

An applicant is required to meet the provisions for parking for handicapped person vehicles in conformance with the requirements of the Michigan barrier-free code.

### Section 5.3 – Size of Parking Space and Circulation Areas

Each parking space shall have a minimum width of nine feet (9') and a minimum length of eighteen feet (18').



Parking lots shall have circulation lanes of at least twenty feet (20') when perpendicular parking is constructed. There shall be a clearance of at least five feet from the building to any parking space or stall.

Parking Pattern	Width of Parking Maneuvering Lane	Parking Space Width	Parking Space Length	One Tier of Parking, Plus Maneuvering Lane	Two Tier of Parking, Plus Maneuvering Lane
0° (Parallel Parking)	12 FT.	8 FT.	22 FT.	20 FT.	28 FT.
30° TO 53°	13 FT.	9 FT.	18 FT.	32 FT.	51 FT.
54° TO 74°	18 FT.	9 FT.	18 FT.	38 FT.	58 FT.
75° TO 90°	20 FT.	9 FT.	18 FT.	42 FT.	60 FT.

**Section 5.4 – Required Number of Parking Spaces by Use Classification**

The following schedule defines the minimum number of off-street parking spaces required for the land use classifications cited in the following schedule. The Board of Zoning Appeals may classify a use not described herein by classifying it as the same as a similar use that is listed.

Minimum Number of Parking Spaces Required for Specific Land Uses	
Land Use Classification	Number of Parking Spaces
A. Residential Land Use	
1. Single Family Dwelling	2
2. Two- Family Dwelling	2 for each unit
2. Multiple-Family Dwelling	1.5 for each unit
B. Institutional Land Use	
1. Churches, Temples, & Synagogues	1 for each 3 seats, or each six feet of pews in the main worship area
2. Hospitals	1.5 for each bed
3. Nursing Homes	1 for every 2 beds
4. Elementary/Junior High Schools	1 for each teacher, employee, and administrator plus 2 visitor spaces
5. Senior High School	1 for each teacher, employee, and administrator on for each two (2) students
6. Clubs and Social Organizations	1 for every 3 members
7. Stadiums, Theaters, & Auditoriums	1 for every 3 seats

<b>C. Business and Commercial Land Uses</b>	
1. Retail Commercial or Shopping Center	1 for every 100 sq. ft. of useable floor area
2. Beauty and Barber Shop	2 spaces for each barber or beauty chair
3. Bowling Alleys	5 for each bowling lane
4. Dance Halls, Skating Rinks, and Assembly Halls without Fixed Seats	1 for every 2 people allowed by local, county, or state fire, building or health law
5. Restaurants	1 for every 2 seats
6. Furniture, Appliance, Household Equipment, Repair Shops, Plumbing and Electricians Shoe Repair and Similar Uses	1 for every 150 sq. ft. of useable floor area
7. Glass and Service Stations	1 at each pump if retail, plus 1 for each rack, stall, or pit
8. Mortuary Establishments	1 for each 30 sq. ft. of assembly room or parlor
9. Motel, Hotel, or Commercial Lodging (Includes Bed & Breakfast Inns)	1.5 for each unit plus 1 for each employee
10. Car Dealerships and Service Centers	1.5 for every 400 sq. ft. of retail floor space and 1 for each service stall
11. Retail Stores not Otherwise Specified	1 for each 150 sq. ft. of useable floor area
12. Banks and Financial Institutions	1 for each 200 sq. ft. of useable floor area
13. Business Professional Offices	1 for each 100 sq. ft. of useable floor space
<b>D. Industrial Land Uses</b>	
1. Industrial or Research Establishment	5 spaces plus 1 added space for each employee on the shift with the most employees, or 1 space for every 550 sq.ft. of useable floor space, whichever is greatest
2. Wholesale Establishments	5 spaces plus 1 added space for each employee on the shift with the most employees, or 1 space for every 1,700 sq.ft. of useable floor space, whichever is greatest



**Section 5.5 – Building, Structure, or Use Expansions or Additions**

Additional parking shall be provided for any increase in floor area, change in use, addition, or expansion of a building or site.

**Section 5.6– Off-Street Parking Area Construction Requirements**

- a. The off-street parking areas shall be surfaced with a durable material that shall be graded to drain and manage storm water.
- b. Storm water collection, drainage and retention structures meeting all requirements of the Tuscola County Road Commission and the Tuscola County Drain Commissioner shall be installed for all off-street parking areas.
- c. All lighting of a required off-street parking area shall be arranged in such a manner and shall be of such height that the illumination is directed toward the ground and is not directed toward a public thoroughfare or adjacent properties.
- d. Any parking area larger than ten (10) spaces shall have a visual screen not less than four (4) feet high between the parking area and adjacent property zoned R-1.
- e. A zoning permit, and in some instances, site plan review shall be required for construction of any parking lot.

## Chapter 6 – Sign Regulations

### Section 6.1 - Definitions

**BUILDING SIGN.** A sign attached to a building as either a wall sign, projecting sign, awning sign, window or canopy sign. No sign shall be placed above the roof line

**COMMERCIAL SPEECH.** Speech advertising a business, profession, commodity, service, or entertainment.

**DIRECTIONAL SIGN.** Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

**FREESTANDING SIGN.** Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure

**GROUND SIGN.** Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

**ILLUMINATED SIGN.** Any sign designed to give forth artificial light or designed to reflect any such light given from any source which is intended to cause such light or reflection.

**NONCOMMERCIAL SPEECH.** Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

**OFF PREMISE SIGN.** A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**ON PREMISE SIGN.** A sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the sign is located.

**SIGN.** Any device visible from a public place or right-of-way whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations.

**SIGN AREA.** The area of a sign shall be computed as the entire area circumscribed by a parallelogram, triangle, circle, or semi-circle, or any combination of these figures, which includes all of the display area of the sign, including frames surrounding display areas. For signs which consist of individual letters attached or painted on the wall of a building, with only the wall as background and no added decoration or border, the sign area shall be the geometrical shape formed by an imaginary line along the exterior perimeter of the word, or words, as a whole. For purposes of computing sign area, only one side of a sign shall be used.

**TEMPORARY SIGN.** A type of non-permanent, sign that is located on private property that can be displayed for no more than 30 consecutive days at one time.

**WALL SIGN.** Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

**WINDOW SIGN.** Any building sign, pictures, symbol, or combination thereof, designed to communicated information about an activity, business, commodity, event, sale, or services, what is placed inside a window or upon the window panes or class and is visible from the exterior of the window.

### **Section 6.2 – Purpose of Sign Regulations**

The purpose of the sign regulations herein are to regulate the size, location, height, and other physical features for all exterior signs in the community. The purpose and intentions of the regulations are as follows:

- a. To control the scale and quantity of signage, particularly in business and industrial districts, in order to limit and mute their visual impact on motorists as it may be a distraction to public safety for traffic on streets, roads, and highways.
- b. To reflect community standards as to the quantity, scale, and impact of signs on the visual environment, including the impacts on aesthetic concerns, property values, health, safety, and general welfare.
- c. To define the appropriate location, scale, lighting, and spatial placement of signs in the districts in which they are located so as to meet community standards.

### **Section 6.3 – Off-Premises Signs**

The following regulations pertain to off-premises signs.

- a. Off-Premises signs in the township are permitted only on major arterials as designated in the exhibit attached to this ordinance; only in business or manufacturing zoning districts; and not closer than three hundred feet (300') to any residential dwelling.
- b. The size of the advertising face of off-premises signs shall not exceed the dimensions of twelve feet (12') in height and thirty-six feet (36') in length or a total area of more than four hundred thirty-two (432) square feet. Off-premises signs shall not have a total height greater than thirty feet from the average height of the surrounding terrain.
- c. Off-premises signs shall not be located any closer to the road right-of-way than the permitted setback for buildings in that district and shall not be located any closer than twelve hundred feet (1,200') to any other off-premises sign. Only a single off-premise sign may be installed at any one side, except that such sign may have advertising faces in both directions.
- d. Off-premise signs along state trunklines designated by the Michigan Department of Transportation are subject to this zoning ordinance for some regulations, but are also regulated by and require a permit from that Department for such signs permitted only in business and industrial areas along state trunklines.

- e. Construction and Maintenance.
  - 1. All plans for off-premises signs shall be certified by a licensed engineer registered in Michigan.
  - 2. All off-premises signs shall be constructed in accordance with industry-wide standards established by the Outdoor Advertising Association of America and the Institute of Outdoor Advertising, or their successor organizations. All off-premises advertising signs shall be structurally sound and maintained in good condition and in compliance with the Michigan Uniform Construction Code.
  - 3. The rear face of a single-face, off-premises advertising sign shall be painted and maintained with a single neutral color as approved by Fairgrove Township inspection made of the billboard by a licensed engineer registered in Michigan and shall provide to Fairgrove Township a certificate certifying that the billboard is structurally sound.
- f. Identification of Sign Owner: All off-premises signs shall be identified on the structure with the name, address, and phone number of the owner of such sign.
- g. Safety. In applying for special exception relief, the applicant bears the burden of proof to establish that the proposed off-premises sign will not create a public health or safety hazard in the matter and location that it is proposed and in the manner by which it is to be operated.

#### **Section 6.4 – Permit**

Prior to construction, placement, or establishment of any permanent sign in a B-1 or M-1 District or on a County Primary Road, a permit shall be obtained from the zoning administrator. Said permit shall be valid for a period of six months after issuance. If the sign installation has not been completed within six months, the permit is null and void.

A permit shall not be required for changing text in accordance with a name change; for replacing existing copy with identical or similar copy; for changing copy on a marquee type sign; for sign maintenance purpose; or for temporary signs identified in each district.

#### **Section 6.5 – Removal of Illegal Signs**

Illegal signs shall be removed within thirty days of notification of their illegal nature by the Zoning Administrator. Signs which were conforming prior to adoption of this ordinance shall be deemed non-conforming structures and shall comply with provisions for such non-conforming structures in Chapter Three of this ordinance.

#### **Section 6.6 – Signs Prohibited from Public Right-of-Way of Corner Clearance**

No sign, either temporary or permanent, shall be erected or placed in the public right-of-way or corner clearance area as defined in Section 303. Any sign in the public right-of-way is declared an unsafe condition and public nuisance that is illegal and shall be removed within five (5) weekdays.

## **Section 6.7 - Maintenance of Signs**

- a. The Zoning Administrator or his or her designee is authorized to order the removal of any sign that is not maintained in accordance with this chapter.
- b. All signs for which a permit is required, together with all their supports, braces, guys and anchors, shall be kept in repair in accordance with this chapter. When not galvanized or constructed of approved corrosion-resistant noncombustible materials, signs shall be painted when necessary to prevent corrosion.
- c. The owner or lessee of every sign shall maintain the immediate premises occupied by the sign in a clean, sanitary, and healthful condition.
- d. Every sign shall be subject to the inspection and approval of the Zoning Administrator or his or her designee.

## **Section 6.8 – Sign Requirements**

The following sheets summarize the specific sign regulations for each zoning district in the township.

- a. Agricultural Zoning Districts
  1. Manner of Mounting, Location, and Placement of Signs:
    - i. Permanent signs are permitted, shall be unanimated, and non-illuminated
  2. Size of Sign
    - ii. Signs shall have a surface area of twelve square feet or less.
    - iii. A sign mounted or painted on an agricultural accessory building shall have a surface area of 32 square feet or less.
  3. Number of Signs Permitted:
    - i. One sign shall be permitted on each dwelling.
    - ii. One sign shall be permitted on each agricultural accessory building.
  4. Mobility and Illumination:
    - i. No mobility or illumination is permitted in conjunction with any sign in this district.
  5. Temporary Signs Permitted:
    - i. Temporary signs that comply with the requirements in this section shall not be included in the determination of the type, number, or area of signs allowed on a property.
    - ii. Temporary signs shall be kept neat, clean and in good repair. Signs which are torn, damaged or otherwise unsafe or in a state of disrepair shall be immediately repaired or removed.
    - iii. Temporary signs may be displayed providing,
      - a. It does not have blinking, flashing, or moving lights or parts
      - b. It is not affixed permanently to the ground or building,
      - c. It is not attached to any structure or vegetation such as utility structures, traffic signs/poles, trees or similar items.

- d. Each site may display up to four temporary signs, each sign is not to exceed 10 square feet. Any sign over this size will require a sign permit.
      - e. vi. All temporary signs shall be restricted to a period of 90 days per calendar year.
    - iv. During the time a property is for rental, sale, or lease, one additional (1) sign shall be allowed, This sign shall not exceed 8 square feet in area, and shall not be directly illuminated.
  - 6. Exempt Signs Not Subject to these regulations:
    - i. Public and Non-Profit Institutional Signs;
    - ii. Private Traffic Control Signs;
    - iii. Postal Box Identification Signs;
    - iv. Centennial Farm display markers
- b. Residential Zoning Districts
  - 1. Manner of Mounting, Location, and Placement of Signs:
    - i. Permanent signs shall be mounted on the structure, shall be unanimated, and non-illuminated.
  - 2. Size of Signs
    - i. and shall have a surface area of six square feet or less.
    - ii. A sign mounted or painted on an agricultural accessory building shall have a surface area of 32 square feet in area or less.
  - 3. Number of Signs Permitted:
    - i. One sign shall be permitted on each dwelling.
    - ii. One sign shall be permitted on each agricultural accessory building.
  - 4. Mobility and Illumination:
    - i. No mobility or illumination is permitted for any sign in this district.
  - 5. Temporary Signs Permitted:
    - i. Temporary signs that comply with the requirements in this section shall not be included in the determination of the type, number, or area of signs allowed on a property.
    - ii. Temporary signs shall be kept neat, clean and in good repair. Signs which are torn, damaged or otherwise unsafe or in a state of disrepair shall be immediately repaired or removed.
    - iii. Temporary signs may be displayed providing,
      - a. It does not have blinking, flashing, or moving lights or parts.
      - b. It is not affixed permanently to the ground or building,
      - c. It is not attached to any structure or vegetation such as utility structures, traffic signs/poles, trees or similar items.
      - d. Each site may display up to four temporary signs, each sign is not to exceed 10 square feet. Any sign over this size will require a sign permit.
      - e. All temporary signs shall be restricted to a period of 90 days per calendar year.
    - iv. During the time a property is for rental, sale, or lease, one additional (1) sign shall be allowed, This sign shall not exceed 8 square feet in area, and shall not be directly illuminated.

- v. Banner, pennants and inflatable signs may be utilized subject to the following conditions:
    - a. Pennants, banners, and inflatable signs may be erected for a period of not to exceed thirty (30) days in any calendar year.
    - b. No banner shall be strung across any public right-of-way except as authorized by the Township Board and County Road Commission for special community events only. Banners strung across state roads will also require the permission of the Michigan Department of Transportation.
  - 6. Exempt Signs Not Subject to these regulations:
    - a. Public and Non-Profit Institutional Signs;
    - b. Private Traffic Control Signs;
    - c. Postal Box Identification Signs;
  - 7. Other Regulations:
 

Multiple family or subdivision project signs at entrance roads are permitted providing they do not exceed forty (40) sq.ft. in area
- c. Business Zoning Districts
1. Manner of Mounting, Location, and Placement of Signs:
    - i. Flat Wall Signs may be mounted anywhere on the principal building.
    - ii. Projecting or Freestanding Signs shall have a minimum clearance of eight feet (8') above a sidewalk or fifteen feet (15') above driveways, alleys, and/or parking lots.
    - iii. Freestanding or ground-mounted signs may be located within any yard area.
    - iv. Freestanding, pole- or pilon-mounted signs may extend twenty feet (20') above the average ground surface. Ground-mounted signs may extend to a height of five feet (5') above the average ground surface.
    - v. Signs mounted to a structure shall not extend more than three feet (3') above the highest part of the roof.
  2. Size of Signs
    - i. The sign area for each business in a structure may not exceed forty (40) sq.ft.
    - ii. Permanent Joint Signs for a business complex may be used for at least three tenants and may include up to 120 sq.ft. of area on each side of the sign.
  3. Number of Signs Permitted:
    - i. One sign shall be permitted for each business in a structure, and
    - ii. One freestanding sign is permitted for each street frontage of more than 100 feet providing the lot size exceeds 25,000 sq.ft.
    - iii. One additional sign is permitted for each increment of 250 ' of street frontage.
    - iv. An additional wall-mounted sign is permitted if the building is set back more than 150 ' from the right-of-way line.
  4. Mobility and Illumination:
    - i. No sign mobility is permitted in conjunction with any permitted sign.
    - ii. All direct or reflected light from signs shall be shaded, shielded, or muted so that the light is not objectionable to adjacent properties or does not constitute a hazard to nearby street or road traffic.
  5. Temporary Signs Permitted:
    - i. Temporary signs that comply with the requirements in this section shall not be included in the determination of the type, number, or area of signs allowed on a property.

- ii. Temporary signs shall be kept neat, clean and in good repair. Signs which are torn, damaged or otherwise unsafe or in a state of disrepair shall be immediately repaired or removed.
  - iii. Temporary signs may be displayed providing,
  - iv. It does not have blinking, flashing, or moving lights or parts,
  - v. It is not affixed permanently to the ground or building,
  - vi. It is not attached to any structure or vegetation such as utility structures, traffic signs/poles, trees or similar items.
  - vii. It is not strung across any public right-of-way nor shall any temporary sign project beyond the property line except as authorized by the County Road Commission.
  - viii. Each site may display up to three temporary signs, each sign is not to exceed 16 square feet. Any sign over this size will require a sign permit.
  - ix. All temporary signs shall be restricted to a period of 90 days per calendar year.
  - x. Temporary Window Signs
    - i. Window signs shall not exceed 80% of the total window area for each wall of the building.
    - ii. Such temporary window signs shall not be subject to the permit requirements of this chapter
  - xi. Banner, pennants and inflatable signs may be utilized subject to the following conditions:
    - i. Pennants, banners, and inflatable signs may be erected for a period of not to exceed thirty (30) days in any calendar year.
    - ii. No banner shall be strung across any public right-of-way except as authorized by the Township Board and County Road Commission for special community events only. Banners strung across state roads will also require the permission of the Michigan Department of Transportation.
  - xii. During the time a property is for rental, sale, or lease, one additional (1) sign shall be allowed, this sign shall not exceed 16 square feet in area, and shall not be directly illuminated.
6. Exempt Signs Not Subject to these regulations:
- i. Public and Non-Profit Institutional Signs.
  - ii. Private Traffic Control Signs or Postal Box Identification Signs.
7. Other Regulations:
- Identification Signs are permitted for Commercial Subdivisions or Parks, Multiple Family Projects, or Subdivision project signs at entrance roads are permitted providing they do not exceed forty (40) sq.ft. in area.
- d. Manufacturing Zoning Districts
1. Manner of Mounting, Location, and Placement of Signs:
    - i. Flat Wall Signs may be mounted anywhere on the principal building.
    - ii. Projecting or Freestanding Signs shall have a. minimum clearance of eight feet (8') above a sidewalk or fifteen feet (15') above driveways, alleys, and/or parking lots.
    - iii. Freestanding or ground-mounted signs may be located within any yard area.
    - iv. Freestanding, pole- or pylon-mounted signs may extend twenty feet (20') above the average ground surface.
    - v. Ground-mounted signs may extend to a height of five feet (5') above the average ground surface.
    - vi. Signs attached to a business structure shall not extend more than three feet (3') above the highest part of the roof.



- vii. Permanent Joint Signs for a business or manufacturing complex may be used for a business complex with multiple tenants and may include up to 160 sq.ft. of area on each side of the sign.
2. Size of Sign
    - i. The sign area for each business in a structure may not exceed sixty (60) sq.ft.
    - ii. Permanent Joint Signs for a industrial complex may be used for at least three tenants and may include up to 180 sq.ft. of area on each side of the sign
  3. Number of Signs Permitted:
    - i. One sign shall be permitted for each business in a structure.
    - ii. One freestanding sign is permitted for each street frontage of more than 100 feet providing the lot size exceeds 25,000 sq.ft.
    - iii. One additional sign is permitted for each increment of 500' of street frontage.
    - iv. An additional wall-mounted sign is permitted if the building is set back more than 150' from the right-of-way line.
  4. Mobility and Illumination:
    - i. No sign mobility is permitted in conjunction with any permitted sign.
    - ii. All direct or reflected light from signs shall be shaded, shielded, or muted so that the light is not objectionable to adjacent properties or does not constitute a hazard to nearby street or road traffic.
  5. Temporary Signs Permitted:
    - i. Temporary signs that comply with the requirements in this section shall not be included in the determination of the type, number, or area of signs allowed on a property.
    - ii. Temporary signs shall be kept neat, clean and in good repair. Signs which are torn, damaged or otherwise unsafe or in a state of disrepair shall be immediately repaired or removed.
    - iii. Temporary signs may be providing,
    - iv. It does not have blinking, flashing, or moving lights or parts;
    - v. It is not affixed permanently to the ground or building,
    - vi. It is not lighted before 6:00 a.m. or after 10:00 p.m. unless the business on the site is open
    - vii. It is not attached to any structure or vegetation such as utility structures, traffic signs/poles, trees or similar items.
    - viii. It is not strung across any public right-of-way nor shall any temporary sign project beyond the property line except as authorized by the County Road Commission.
    - ix. Each site may display up to three temporary signs, each sign is not to exceed 16 square feet. Any sign over this size will require a sign permit.
    - x. All temporary signs shall be restricted to a period of 90 days per calendar year.
    - xi. Temporary Window Signs
      - a. Shall not exceed 80% of the total window area for each wall of the building.
      - b. Such temporary window signs shall not be subject to the permit requirements of this chapter.
    - xii. Banner, pennants and inflatable signs may be utilized subject to the following conditions:
      - a. Pennants, banners, and inflatable signs may be erected for a period of not to exceed thirty (30) days in any calendar year.
      - b. No banner shall be strung across any public right-of-way except as authorized by the Township Board and County Road Commission for special community events only. Banners strung across state roads will also require the permission of the Michigan Department of Transportation.

- xiii. During the time a property is for rental, sale, or lease, one additional (1) sign shall be allowed, this sign shall not exceed 16 square feet in area, and shall not be directly illuminated.
- 6. Exempt Signs Not Subject to these regulations:
  - i. Public and Non-Profit Institutional Signs.
  - ii. Private Traffic Control Signs or Postal Box Identification Signs.
- 7. Other Regulations:

Identification Signs are permitted for Commercial Subdivisions or Parks, Multiple Family Projects, or Subdivision project signs at entrance roads are permitted providing they do not exceed forty (40) sq. ft. in area.

**Section 6.9 – Substitution Clause**

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of and other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

**Section 6.10 – Severability Clause**

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 6 of this zoning ordinance is for any reason declared invalid, such decision shall not affect the validity or enforceability of the remaining portions of Section 6 of this zoning ordinance.

## **Chapter 7 – Special Land Use Permits**

### **Section 7.1 – Intent and Purpose**

It is the intent of this Chapter to provide for special land uses which shall be permitted in various zoning districts only after review and approval by the planning commission. The purpose is to maintain standards and procedures for review of certain land uses which may not otherwise be appropriate in the zoning district that permits it as a special land use.

### **Section 7.2 – Special Land Uses Eligible**

In order to be considered for Special Land Use Permit, the proposed use must either be identified as a Special Land Use in the appropriate zoning district or be interpreted as consistent with similar uses permitted in those districts by the Zoning Board of Appeals.

### **Section 7.3. Review and Issuance of Special Land Use Permit**

The planning commission shall be responsible for reviewing applications for Special Land Uses and shall have the authority for disapproving or granting approval or approval with conditions.

### **Section 7.4. Materials to be Submitted for Application, Review and Approval**

An application for a Special Land Use Permit shall be submitted and processed under the following procedures:

- a. An Application Form shall be provided by the zoning administrator to be filled out by the applicant and shall include date of the application, the applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the application (substitution may include a legal description or parcel identifications number(s)).
- b. A fee paid for processing Special Land Use Permit, and if required, an escrow deposit, both determined by the Township Board of Trustees, shall be paid prior to review.
- c. An initial site plan shall be prepared in conformance with Chapter 9 of this Ordinance.
- d. A description shall be provided of how the specific requirements for that Special Land Use Permit, as required in following charts, are to be met. This description may be in text, map or both.
- e. The complete application package must be submitted to the Zoning Administrator at least twenty-five (25) days before the Planning Commission meeting at which it will be considered.
- f. Fifteen (15) copies of the application package shall be submitted to the Zoning Administrator.

## **Section 7.5. Procedures for Review**

- a. **PLANNING COMMISSION REVIEW AND HEARING.** The Special Land Use Permit application package shall be the subject of a public hearing conducted by the Planning Commission that conforms to the following process:
  1. **PUBLIC HEARING ON SPECIAL USE.** The Planning Commission shall hold a public hearing on the application as part of the meeting in which the Special Land Use Permit is considered. A notice of public hearing shall be mailed and published in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of such hearing, as specified in Section 103 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.
  2. **APPLICATION REVIEW.** The Planning Commission shall review the Special Land Use Permit application and conduct an informal review of the initial site plan(s) for the proposed use, using the procedure and standards presented in Chapter 9 as a guide and any specific standards identified for the Special Land Use by this Chapter. The Planning Commission may provide comments and helpful suggestions regarding the initial site plan to the applicant, including requests for additional information.
  3. **CONSIDERATION OF SPECIAL LAND USE PERMIT.** Following the close of the public hearing, consideration of the Special Land Use Permit application shall take place.
    - i. **OPEN MEETING.** Note that the Open Meetings Act requires this vote to take place in an open public meeting.
    - ii. **PROMPT DECISION.** In the interest of fairness and a timely response for all concerned parties, the Planning Commission shall render their decision on the Special Land Use Permit during the same meeting in which the public hearing is held, unless further information must be obtained before a decision can be made. In such cases, action upon the Special Land Use Permit may be tabled to a public meeting of the Planning Commission to be held on a specific date which is identified in the motion to table.
    - iii. **ACTION.** Following its review of the Special Land Use Permit application, the Planning Commission shall take one of the following actions:
      - a. Issue the special land use permit if it is found to satisfy the requirements of this Chapter.
      - b. Place conditions on the special land use permit to ensure that it complies with the requirements of this Chapter.
      - c. Deny the special land use permit if it is found that the proposed use fails to satisfy the requirements of this Chapter. In the event of denial, the applicant shall be informed of the decision in writing, with the reasons for denial contained in the letter.
- b. **SITE PLAN REVIEW.** Should the Special Land Use Permit application be approved, or approved with conditions, the next required step prior to the applicant seeking building

permit(s) is to conduct the site plan review process as detailed in Chapter 9. The site plan review by the Planning Commission may occur at a separate meeting from which the Special Land Use Permit application was considered.

- c. REAPPLICATION. An application for a Special Land Use Permit that has been denied, may not be resubmitted until one (1) year after the date of denial has passed.
- d. TERMS OF PERMIT. A Special Land Use Permit consists of a permit that specifies the Special Land Use which is to be allowed and any conditions which were attached by the Planning Commission. If a use established under a Special Land Use Permit is discontinued for a period of one (1) year, the Special Land Use Permit shall expire. To reestablish the use after such expiration will require granting a new Special Land Use Permit, starting with a new application.
- e. REVOCATION. The privilege of a Special Land Use Permit is subject to all the conditions that have been attached to it during the process described above. Except as noted in item 4 – Terms of Permit, the permit remains valid as long as all of those conditions are met and is transferable from owner to owner or “runs with the land.” However, the Planning Commission shall revoke any Special Land Use Permit after it has been proven that the permit conditions have been violated.
  1. FIRST NOTICE. The Zoning Administrator shall send written notice of a violation to the holder of the permit by certified mail. The notice shall state that correction must be made within thirty (30) days or the Planning Commission will revoke the Special Land Use Permit and order the use to cease.
  2. CONSIDERED NONCONFORMING. From the time the Zoning Administrator’s notice of violation is issued, until compliance with all Special Land Use Permit conditions is restored, the use in question shall be treated as an unacceptable Nonconforming Use.
  3. PLANNING COMMISSION ACTION. The Zoning Administrator shall notify the Planning Commission of the violation of conditions of the Special Land Use Permit at the next regular Planning Commission meeting, and revocation of the Special Use Permit shall be considered then. The Planning Commission’s meeting will usually take place before the thirty (30) day period for the first notice has expired. In that case, the resolution to revoke the Special Land Use Permit should be worded so that it takes effect only if compliance with all requirements is not restored. It shall also include authorization for the Zoning Administrator to order the permit holder to cease the permitted use if the violations are not corrected by the end of the first notice period.
  4. SECOND NOTICE AND ORDER. After expiration of the thirty (30) day period, the Zoning Administrator shall notify the permit holder by certified mail that the Special Land Use Permit has been revoked, and the use for which the permit was granted must cease within sixty (60) days from the date of this second notice.
  5. ENFORCEMENT OF ORDER. Failure to comply with the order to cease an activity for which a Special Use Permit has been revoked is a violation of this Ordinance, subject to all penalties thereof

- f. APPEALS. An appeal to the decision of the Fairgrove Township Planning Commission regarding a Special Land Use Permit application is to be considered by the Circuit Court and shall not be considered by the Zoning Board of Appeals.

### **Section 7.6 Standards to Consider When Reviewing Special Land Use Permits**

- a. STANDARDS ATTACHED TO SPECIAL USE PERMIT APPLICATION REVIEW. Before approving or denying a Special Land Use Permit Application, the Planning Commission shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot(s), or parcel(s) meets or does not meet these general standards:
  - 1. The proposed special use shall be harmonious with and in accordance with the general objectives, intent, and purpose of this Ordinance.
  - 2. The proposed special use shall be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity.
  - 3. The proposed special use shall be served adequately by essential public facilities and services, such as: highways, streets, police and fire protection, drainage structures, refuse disposal; or the persons or agencies responsible for the establishment of the proposed use shall be responsible to provide adequately any such services.
  - 4. The proposed special use shall not create excessive additional requirements at public costs for public facilities and services.
- b. ADDITIONAL CONDITIONS. The Planning Commission may stipulate any additional conditions or safeguards deemed necessary to achieve the objectives of this Ordinance. These conditions may include but are not limited to changing the parking, lighting or building configuration to promote compatibility on the site. These may be defined during the Site Plan Review process or during consideration of whether to grant the Special Land Use Permit. All conditions attached to the approval of the site plan are also conditions of the Special Land Use Permit. These conditions, and the reasoning behind them, must be documented in the Planning Commission's minutes, written on the site plan itself, communicated to the applicant in writing, and based directly on the intent of this ordinance. The permit will not take effect until the conditions of approval are accepted by the applicant, signified by the signatures on the site plan itself, of both the applicant and the Planning Commission chairman.
- c. ENFORCEMENT OF CONDITIONS. The breach of any condition shall be cause for the Planning Commission to revoke a Special Land Use Permit.

### **Section 7.7 – Standards, Requirements, and Conditions for Special Land Uses**

The following sections detail the standards, requirements and conditions for special land uses as referenced in Chapter 4 and as identified above in Section 7.6.

### **Section 7.8 – Agricultural Storage, Terminals, and Processing Facilities**

- a. Permitted as a Special Land Use in the A-1 zoning district.
- b. General Standards:
  - 1. Facility shall be located in proximity to farming areas.
- c. Specific Requirements:
  - 1. Minimum site size shall be at least three (3) acres.
  - 2. Mechanical, electrical, storage, or unsafe areas shall be fenced.
  - 3. Local and State standards for noise, dust, light and other performance standards shall be met.

### **Section 7.9 – Airports and Landing Strips**

- a. Permitted as a Special Land Use in the A-1 zoning district.
- b. General Standards:
  - 1. Site shall be located in a sparsely populated area.
- c. Specific Requirements:
  - 1. Minimum site size shall be forty (40) acres.
  - 2. No runway shall be placed so that homes or public places are located within 1,000 feet of the end of the runway on the flight path.
  - 3. No part of a runway, taxiway, or aircraft apron shall be within 200' of any property or right-of-way line.

### **Section 7.10 – Automobile Service Station, Repair, or Washing Facility**

- a. Permitted as a Special Land Use in the B-1 and M-1 zoning districts.
- b. General Standards:
  - 1. Site shall have at least one property line abutting a state trunkline or county road.

c. Specific Requirements:

1. Ingress and egress driveways shall be at least 60' from intersecting right-of-way lines and from each other at their nearest edge.
2. Auto washing facilities shall also have a holding area for at least six vehicles to require vehicles to wait for water runoff before entering public road.

**Section 7.11 – Bed and Breakfast Inn (Tourist Homes)**

a. Permitted as a Special Land Use in the A-1 and R-1 zoning districts.

b. General Standards:

1. Facility shall be located on a lot that is at least one (1) acre in area.

c. Specific Requirements:

1. Inn shall provide a common room for sitting and a common room for eating.
2. There shall be at least one bathroom for every two rooms used for sleeping.
3. One parking space shall be required for the inn plus one for each sleeping room.
4. Eating facilities are limited to sleep guests of the inn.

d. Discretionary Requirements:

1. The inn may not change the character or appearance of the neighborhood.
2. Signs shall be harmonious with the neighborhood and not exceed 20 square feet in area.

**Section 7.12 – Building Supply, Warehouses, and Wholesale Businesses**

a. Permitted as a Special Land Use in the A-1 zoning district.

b. General Standards:

1. Site shall be at least two (2) acres in size and shall be located on a state trunkline or county road.
2. Facilities with truck terminals shall be at least five (5) acres in size.

c. Specific Requirements:

1. Sites may not be closer than 100' to the nearest residential zone or property.
2. If a residence or residential zone is within 250 feet, the property shall have a fence or plant hedge with a 15' landscape buffer.



**Section 7.13 – Commercial Recreation Uses (Bowling Alleys, Pool Hall, etc.)**

- a. Permitted as a Special Land Use in the B-1 zoning district.
- b. General Standards:
  - 1. Site shall be at least two (2) acres in size.
- c. Specific Requirements:
  - 1. Site may not be closer than 100' to a residence or residential zoning district.
- d. Discretionary Requirements: Sufficient parking for the facility shall be provided.

**Section 7.14 – Dealerships for New/Used Auto or Farm Equipment**

- a. Permitted as a Special Land Use in the B-1 zoning district.
- b. General Standards:
  - 1. Site shall be located on a state trunkline or county road.
  - 2. Site shall be at least two (2) acres in size.
- c. Specific Requirements:
  - 1. Site shall have all display areas on paved parking, gravel, or other surface that control weed growth and support vehicles for sale.
  - 2. All maintenance, repair, and service shall be in an enclosed building.

**Section 7.15 – Drive-In or Drive-Thru Business Operations**

- a. Permitted as a Special Land Use in the B-1 and M-1 zoning districts.
- b. General Standards:
  - 1. Site shall be located on a state trunkline or county road.
- c. Specific Requirements:
  - 1. Sites may not be closer than 100' to the nearest residential zone or property.
  - 2. Ingress and egress shall be from separate drives at least sixty (60) feet from each other and any intersecting right-of-way.
  - 3. Drive-up windows must have a thirty-inch (30") pedestrian barrier for at least six feet (6') beyond walls or doors to prevent pedestrian/vehicle conflict.

### **Section 7.16 – Farm Equipment Sales and Service**

- a. Permitted as a Special Land Use in the A-1 zoning district.
- b. General Standards:
  - 1. Site shall be located on a state trunkline or county road.
  - 2. Site shall be at least two (2) acres in size.
- c. Specific Requirements:
  - 1. Site shall have all display areas on paved parking, gravel, or other surface that control weed growth and support vehicles for sale.
  - 2. All maintenance, repair, and service shall be in an enclosed building.

### **Section 7.17 – Golf Courses and Private Recreation Facilities**

- a. Permitted as a Special Land Use in the R-1 zoning district.
- b. General Standards:
  - 1. Size of the parcel shall be appropriate for intended use.
- c. Specific Requirements:
  - 1. Facility must include restrooms and if necessary, changing rooms.
  - 2. Pro-shops, sales and service for available activities are permitted even if not zoned B-1.

### **Section 7.18 – Institutional Uses for Human Care, Education, Social, Cultural, and Religious Purposes**

- a. Permitted as a Special Land Use in the B-1 zoning district.
- b. General Standards:
  - 1. Site shall be located on a state trunkline or county road.
  - 2. Site shall be at least two acres in size.
- c. Specific Requirements:
  - 1. No building shall be closer than 50' to any street or property line.
  - 2. Structures over 28' in height shall be set-back one more foot for each additional foot of height.
  - 3. One sign for each street frontage is permitted providing it does not exceed 40 sq. ft.
- d. Discretionary Requirements: Building shall be designed to be compatible with surrounding area.

### **Section 7.19 – Mobile Home Parks**

- a. Permitted as a Special Land Use in the R-1 zoning district.
- b. General Standards:
  - 1. Site shall be located on a state trunkline or county road.
- c. Specific Requirements:
  - 1. Minimum site shall be at least fifteen (15) acres that is zoned R-1.
  - 2. The regulations established by state law (The Mobile Home Commission Act, Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all mobile home parks.
  - 3. Mobile home parks shall be developed with an average site size of 5,500 sq.ft. Individual sites may be reduced to as small as 4,400 sq.ft. provided that for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all mobile home park residents. This open space shall be in addition to the open space required under the Manufactured Housing Commission Rules in effect at the time the proposal is submitted.

### **Section 7.20 – Large Scale Primary Metal Industries such as Foundries and Steel Mills, Petroleum Refining and Chemical Manufacturing Plants, and Electrical Generating Plants**

- a. Permitted as a Special Land Use in the M-1 zoning district.
- b. General Standards:
  - 1. Site shall be located on a state trunkline or county road.
  - 2. Site shall be at least twenty (20) acres in size.
- c. Specific Requirements:
  - 1. Minimum lot width of 400' is required.
  - 2. No building, structure, or fixed equipment shall be closer than 75' to any street or property lines.
  - 3. For structures over 28' in height, structure shall be set back from street or property lines one additional foot.
- d. Discretionary Requirements:
  - 1. Applicant must comply with all performance requirements listed in Section 305.
  - 2. Township may determine truck and access routes.
  - 3. The need, height, location, and type of landscaping or berms shall be specified.

4. Project must be compatible with its environment.

**Section 7.21 – Multiple-Family Residential Uses**

- a. Permitted as a Special Land Use in the R-1 zoning district.
- b. General Standards:
  1. Site shall be located on a state trunkline or county road or in any area of existing residential development.
- c. Specific Requirements:
  1. Site shall have public water and sanitary sewer or provide project-wide services approved by the health department.
  2. Project shall not exceed a density of ten (10) units per acre.
  3. No structure shall be located closer than 50' to any street or property line.

**Section 7.22 – Sanitary Landfills, Solid Waste Transfer Stations, Solid Waste Processing, Storage or Disposal Areas; Junkyards; Sewage and Disposal Facilities**

- a. Permitted as a Special Land Use in the A-1 and M-1 zoning districts.
- b. General Standards:
  1. Site shall be in a rural area and not closer than 200' to any residential zoning district nor closer than 200' to any existing residences.
- c. Specific Requirements:
  1. Minimum site size shall be 10 acres in area with a minimum frontage of 400'.
  2. Land-locked parcels must have a minimum 40' access easement and 400' side dimensions.
  3. No outdoor excavations or operations may be conducted within 350' of a residence.
  4. No cut, excavation, or storage of dirt or product may be made closer than 75' to any street or property line.
  5. No finished slope shall have a slope greater than 3:1 (horizontal:vertical) and all slopes shall be treated in conformance with Part 91 of the Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act (NREPA).
- d. Discretionary Requirements:
  1. Township may determine truck and machinery routes.

2. Township may determine need, location, and height of berms, fences and landscaping to mitigate noise, dust, and visual impact.
3. Site plan showing sequenced rehabilitation of the site for alternative future uses shall be submitted.

### **Section 7.23 – Veterinary Clinics and Kennels**

- a. Permitted as a Special Land Use in the A-1 zoning district.
- b. General Standards: Site shall be five acres if an outside exercise area is included. Site can be one acre if all animals are always kept in an enclosed building.
- c. Specific Requirements:
  1. No building or outdoor fence or wall enclosure shall be constructed closer than 50' to any property or street line.
  2. Outdoor exercise areas: Site shall be surrounded by brick, solid masonry wall, or by a chain-link fence with obscuring evergreen plantings at least four-feet high.

### **Section 7.24 – Wind Energy Conversion System**

- a. INTENT.
  1. Promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of non wind utility supplied electricity.
  2. Permit the safe, effective and efficient siting and operation of utility grid wind energy conversion systems and farms.
- b. DEFINITIONS
  1. Ambient: Ambient is defined as the sound pressure level exceeded 90% of the time or L90.
  2. ANSI: American National Standards Institute.
  3. dB(A): The sound pressure level in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.
  4. Decibel: The unit of measure used to express the magnitude of sound pressure and Sound intensity.
  5. Decommission: To remove or retire from active service.

6. Height of Structure: The height of the structure is to the highest point on the tip of a fully vertical rotor blade.
7. Inhabited Structure: Any existing structure usable for living or non-agricultural commercial purposes, which includes but is not limited to working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, including agricultural barns, is not included in this definition. If it is not clear by this definition, the Zoning Administrator shall make a determination of any structure regarding whether or not it is inhabited.
8. IEC: International Electro technical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.
9. ISO: International Organization for Standardization. ISO is a network of the national standards institutes of 156 countries.
10. Limited Participating Parcel: A property within Fairgrove Township that participates in a lease or easement agreement, or other contractual agreement, with an entity other than the entity submitting a Special Land Use Permit application for the purposes of developing of a utility grid wind energy system.
11. Non-Participating Parcel: A property within Fairgrove Township that is not subject to a wind turbine lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a utility grid wind energy system.
12. On-Site Use Wind Energy Systems: An On-Site Use wind energy system is intended to primarily serve the needs of the consumer.
13. Participating Parcel: A property within Fairgrove Township that participates in a lease or easement agreement, or other contractual agreement, with an entity submitting a Special Land Use Permit application for the purposes of developing of a utility grid wind energy system.
14. Rotor: An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
15. SCADA Tower: A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.
16. Shadow Flicker: Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window at a dwelling.
17. Sound Pressure: Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.
18. Sound Pressure Level: The sound pressure mapped to a logarithmic scale and

reported in decibels (dB).

19. Utility Grid Wind Energy Systems: A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid.
  20. Wind Energy Conversion System (WECS): A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.
  21. Wind Site Assessment: An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.
  22. On Site Wind Energy Systems (Net Metering) An On Site Use wind energy system is intended to primarily serve the needs of the consumer. An On Site Use wind energy system shall be considered a use by right in the Agricultural district and subject to set-back restrictions from all property lines.
- c. WIND ENERGY SYSTEM SITE ASSESSMENT FOR UTILITY GRID WIND ENERGY SYSTEMS: Prior to construction of a Utility Grid wind energy system, a wind site assessment is conducted to determine the wind speeds and the feasibility of using the site. Anemometer towers or "Met Towers," more than 65 feet in height used to conduct a wind site assessment for possible installation of a utility grid wind energy system shall also be a Special Land Use.

Prior to the installation of the tower, an application for a Special Land Use permit shall be filed with the local government that will include:

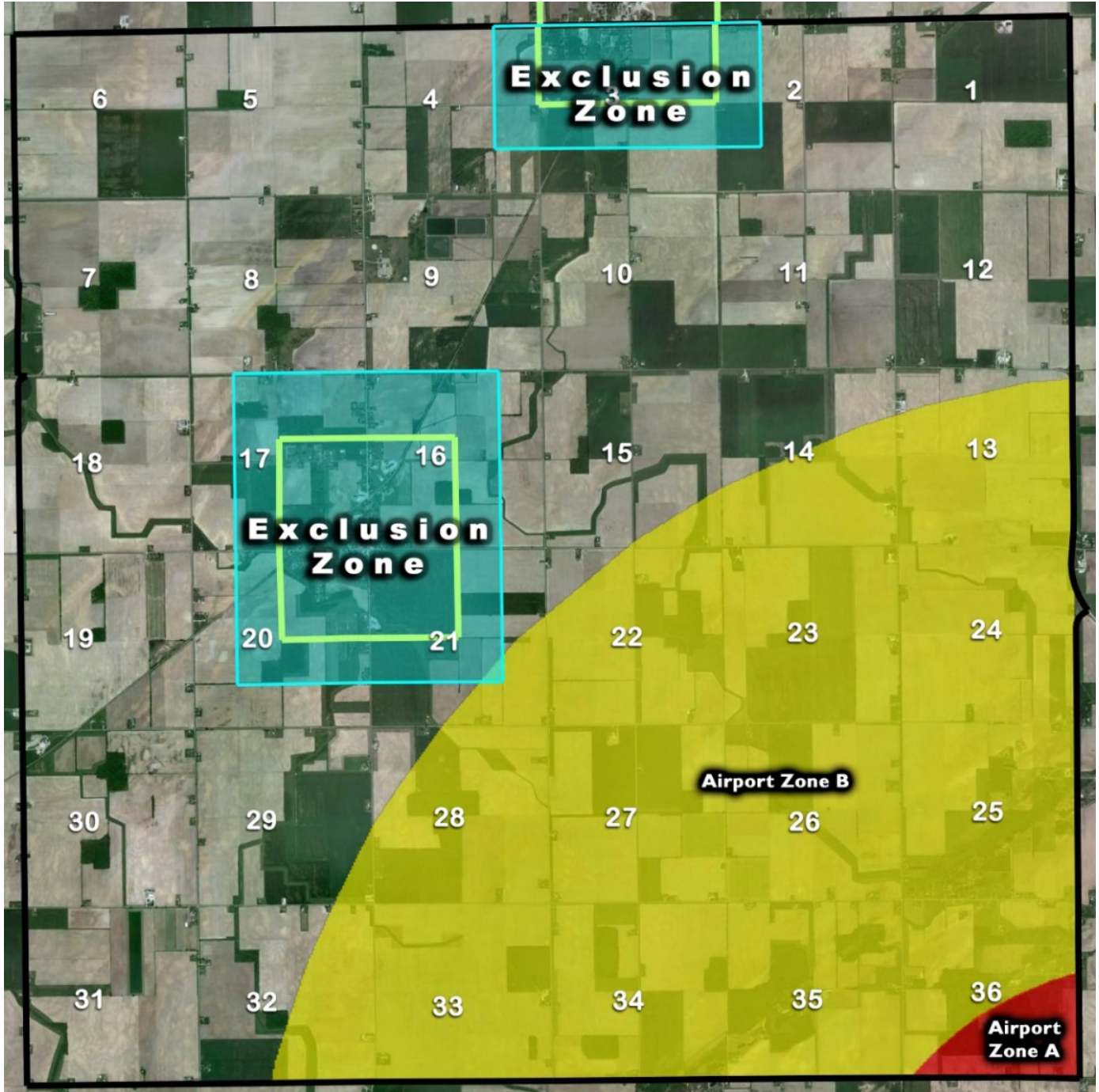
1. applicant identification,
  2. a site plan,
  3. a copy of that portion of the applicant's lease with the land owner granting authority to install the Met tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment, and
  4. proof of the applicant's public liability insurance. The distance from the center of a Met tower and the property lines between the leased property and the non-leased property shall be at least the height of the Met tower. Leased property can include more than one piece of property and the requirement shall apply to the combined properties.
- d. UTILITY GRID WIND ENERGY SYSTEMS: A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid. Utility Grid wind energy systems shall be considered a Special Land Use. Prior to the installation of a Utility Grid wind energy system, an application for a Special Land Use permit shall be filed with the local government and shall include the following:

1. Applicant Identification: Applicant name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the application (substitution may include a legal description or parcel identifications number(s)), and any additional contact information. Each application for a utility grid wind energy system shall also be dated to indicate the date the application is submitted to Fairgrove Township.
2. Project Description: A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.
3. Procedure: The Planning Commission review of a Special Land Use Permit application for a utility grid wind energy system is a two-step process. The first step is the public hearing and decision by the Planning Commission, per the procedures for review in Section 7.5. The second step, which may occur at a separate meeting for a utility scale wind energy system, is the site plan review process by the Planning Commission as described in Chapter 9. A decision on the Special Land Use Permit application by the Planning Commission is inclusive of all proposed wind turbine components, underground electrical lines, sub-station(s), underground electrical lines, junction boxes, laydown yard(s), concrete batch plant(s), and any operations/maintenance building(s).
4. Site Plan: The site plan shall include maps showing the physical features and land uses of the project area, both before and after construction of the proposed project. The site plan shall include:
  - i. the project area boundaries,
  - ii. the location, height, and dimensions of all existing and proposed structures and fencing, and anti-climbing devices.
  - iii. the location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state-maintained road,
  - iv. existing topography,
  - v. water bodies, waterways, wetlands, and drainage channels, and
  - vi. all new infrastructure above ground related to the project.
5. Insurance: Proof of the applicant's public liability insurance.
6. Consent Documents: Copies of any written waivers from neighboring property owners.
7. Sound Pressure Level: Copy of the modeling and analysis report.
8. Certifications: Certification that applicant has complied or will comply with all applicable state and federal laws and regulations. Copies of all such permits and approvals that have been obtained or applied for at time of the application. Note: Land enrolled in Michigan Farmland Preservation Program through *Part 361 of*



*the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116, must receive approval from the Michigan Department of Agriculture to locate a WECS on the property prior to construction.*

9. Visual Impact: Visual simulations of how the completed project will look from four viewable angles.
10. Environmental Impact: Copy of the Environmental Impact analysis.
11. Avian and Wildlife Impact: Copy of the Avian and Wildlife Impact analysis.
12. Shadow Flicker: Copy of the Shadow Flicker analysis.
13. Manufacturers' Material Safety Data Sheet(s): Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
14. Decommissioning: Copy of the decommissioning plans and a description of how any surety bond, if required, is applied to the decommissioning process.
15. Complaint Resolution: Description of the complaint resolution process.
16. An applicant shall remit an application fee and if required, an escrow deposit, in the amount specified in the fee schedule adopted by the Board of Trustees. This schedule shall be based on the cost of the application review and may be adjusted from time to time. If professional review of plans is required, those costs shall be borne by the applicant with his consent.
17. Fire suppression plan.
18. STANDARDS AND REQUIREMENTS. The Utility Grid wind energy system project shall meet the following standards and requirements:
  - i. Exclusion Zone: In addition to the Wind Energy Overlay District that encompasses the entirety of Fairgrove Township, all proposed Utility-Grid Wind Energy Systems are subject to an Exclusion Zone.
    - a. It is the intent and purpose of the Utility-Grid Wind Energy Exclusion Zone to provide residents of Fairgrove Township and adjacent villages relief in specified areas from wind energy systems. The exclusion zone around the villages is based on the potential build out of Fairgrove Township based on the Future Land Use plan shown in the Township's adopted Master Plan. Fairgrove Township permits Utility-Grid Wind Energy Systems as a special land use requiring a Special Land Use Permit within the Wind Energy Overlay. Wind turbines that are part of a Utility-Grid Wind Energy System are restricted from all property in the Exclusion Zone as depicted as the blue boundary on the Utility-Grid Wind Energy Exclusion Zone Map shown below, regardless of the zoning district.



- b. The boundaries of the Utility-Grid Wind Energy Exclusion Zone are hereby defined and established as shown on the map, on the previous page, which accompanies this Zoning Ordinance and which map, with all explanatory matter thereon, is hereby made a part of this Zoning Ordinance.
- c. Where uncertainty exists with respect to the boundaries on the Utility Grid Wind Energy Exclusion Zone Map, the following rules shall apply:
  - 1. The blue boundaries indicated as approximately following the streets or highways shall be construed to be such boundaries.
  - 2. The blue boundaries indicated as approximately following Township boundary lines or following lot lines shall be construed as following said lines.
  - 3. The blue boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel to and at such distance as indicated by given distance or scaled dimension.
  - 4. Note that the green boundaries depicted on the exclusion zone map represent the approximate boundaries of Akron Village and Fairgrove Village.
  - 5. The yellow and red contours depicting the approximate locations of any Airport Zones from the Tuscola Area Airport are shown for informational purposes only and are not exclusion zones.
- d. Set-backs from Inhabited structures: Each wind turbine, as measured from the centerline of its tower base shall be set back from the nearest wall of an inhabited structure by a distance of no less than 1,320-feet.
- e. Set-backs from Property Lines:
  - 1. Participating Parcel: A set-back for a wind turbine from the property lines of adjacent participating property is not required.
  - 2. Non-Participating Parcel: The distance between a wind turbine and the property lines of adjacent non-participating properties shall be at least 1.2 times its total structure height.
  - 3. Limited Participating Parcel: A set-back for a wind turbine from the property lines of adjacent limited participating property shall be at least 0.5 times the diameter of the rotor, or at 200 feet, whichever is greater.
- f. Wind turbines and access roads: Wind related facilities 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.

- g. Public Roads: Each wind turbine shall be set back from the nearest public road a distance no less than 1.2 times the total height of the structure determined at the nearest centerline for such public road.
  - h. SCADA (supervisory control and data acquisition) or meteorological (Met) towers shall also comply with the property set-back requirement. The set-back shall be at least the height of the SCADA or Met tower. An Operations and Maintenance Office building, a sub-station, or ancillary equipment shall comply with any property set-back requirement that may be applicable to that type of building or equipment. Overhead transmission lines and power poles shall comply with the set-back requirements applicable to public utilities.
  - i. Sound Pressure Level: The sound pressure level generated by a Utility Grid wind energy system shall not exceed 55 dB(A) as measured at an inhabited structure on non-participating parcels. This sound pressure level shall not be exceeded for more than 30 minutes in any 24hour period . If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
  - j. As part of the application and prior to installation, the applicant shall provide modeling and analysis that will confirm that the Utility Grid wind energy system will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the Utility Grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the local government within 60 days of the commercial operation of the project.
- ii. Construction Codes, Towers, and Interconnection Standards: Utility Grid wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility Grid wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility Grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection

standards. In addition, the application shall include documentation that the applicant has contacted the Tuscola County Airport Ordinance Administrator to determine what is required by the Tuscola Area Airport in terms of any required Airport Zoning Permits and how any proposed structures related to the utility grid wind energy system may be affected by any imposed height limitations as determined by the Tuscola Area Airport.

- iii. Safety: All Utility Grid wind energy systems shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or Operations and Maintenance Office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.
- iv. Visual Impact: Utility Grid wind energy system projects shall use tubular towers and all Utility Grid wind energy systems in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising or graphics shall be on any parts of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's comprehensive plan. There shall be no illumination other than that required of the FAA.
- v. Environmental Impact: The applicant shall have a third party, approved by the Township or their engineer, qualified professional conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis.
  - a. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. The applicant shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.) including but not limited to Part 31 Water Resources Protection (MCL 324.3101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.30301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.). The

applicant shall be responsible for making repairs to any public roads, drains and infrastructure damaged by the construction of the Utility Grid wind energy system.

- vi. Avian and Wildlife Impact: The applicant shall have a third party, approved by the Township or their engineer, qualified professional conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
  - a. Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
  - b. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.
  - c. The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted. Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.
- vii. Electromagnetic Interference: No Utility Grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for global positioning system correction systems (RTK), radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No Utility Grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

- viii. Shadow Flicker: The applicant shall conduct an analysis of potential shadow flicker created by each proposed wind turbine at all inhabitable structures with direct line-of-sight to a wind turbine. Such analysis shall be documented in a shadow flicker modeling report to be submitted as part of the Special Land Use Permit Application to the Planning Commission. The analysis shall identify the locations of shadow flicker created by each proposed wind turbine and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. Site plans shall depict a contour around each proposed wind turbine that represents the predicted thirty (30) hours per year shadow flicker generated by the modeling software used in the report. The analysis shall identify all areas where shadow flicker may affect the occupants of the inhabitable structures and describe measures that shall be taken to eliminate or mitigate the problems. A shadow flicker mitigation plan shall also be submitted with the shadow flicker modeling report. Any shadow flicker complaint shall be addressed by the applicant and be mitigated.
- ix. Decommissioning: The applicant shall submit a decommissioning plan. The plan shall include:
  - a. the anticipated life of the project,
  - b. the estimated decommissioning costs net of salvage value in current dollars,
  - c. the method of ensuring that funds will be available for decommissioning and restoration.
  - d. the anticipated manner in which the project will be decommissioned and the site restored.
  - e. A provision to give notice to the Township one year in advance of decommissioning. A surety bond to assure payment of the cost of decommissioning may be required.
  - f. The standard for inactivity shall be twelve (12) months.
- x. Complaint Resolution: The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the local government from acting on a complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours. A report of all complaints and resolutions to complaints shall be filed with the Township on an annual basis.

- xi. **Conflicting Provisions:** In the event of a conflict between any provision in this section and any other section of this Zoning Ordinance with regard to Utility-Scale Wind Energy Systems, the provisions of this section shall control.

## **Section 7.25 – Solar Energy Facilities**

- a. **SPECIAL LAND USE REQUIREMENTS.** The solar energy regulations and standards described here in Section 7.25 pertain to the creation of large-scale ground-mounted solar photovoltaic installations that primarily sell electricity to be used off-site. The regulations set forth here in Section 7.25 apply to the construction, operation, and/or repair of large-scale ground-mounted Solar Energy Facilities and shall only be allowed as a special land use in the Agricultural District, pursuant to Chapter 7 as to Special Land Use approvals and the following requirements:
  - 1. **Applicant Identification.** Applicant name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the application (substitution may include a legal description or parcel identifications number(s)), and any additional contact information. Each application for a Solar Energy Facility shall also be dated to indicate the date the application is submitted to Fairgrove Township.
  - 2. **Fee.** An applicant shall remit an application fee, an escrow deposit, in the amount specified by Township policy. This schedule shall be based on the cost of the application review and may be adjusted from time to time. If professional review of plans is required, then such costs shall be paid from the escrow deposit.
  - 3. **Project Description.** A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.
  - 4. **Project Design.** A description and drawing of the proposed technology to include type of solar panel and system, fixed mounted versus solar tracking, number of panels, and angles of orientation.
  - 5. **Procedure.** The Planning Commission review of a Special Land Use Permit application for a Solar Energy Facility is a two-step process. The first step is the public hearing and decision by the Planning Commission, per the procedures for review in Chapter 7. The second step, which may occur at a separate meeting for a solar energy facility, is the site plan review process by the Planning Commission as described in Chapter 9. A decision on the Special Land Use Permit application by the Planning Commission is inclusive of all proposed Solar Energy Facilities, underground electrical lines, sub-station(s), junction boxes, laydown yard(s), and any operations/maintenance building(s).
  - 6. **Insurance.** Proof of the applicant's public liability insurance with at least \$3,000,000.00, per occurrence to cover the Solar Energy Facility, the Township, and the landowner.



7. **Certification.** Certifications that the applicant has complied or will comply with all applicable county, state, and federal laws, regulations, and ordinances, including compliance with the Farmland and Open Space Preservation Program (Part 361 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 as amended, more commonly known as PA 116).
8. **Manufacturers' Material Safety Data Sheet(s).** Documentation shall include the type and quantity of all materials used in the operation of all equipment.
9. **Visual Simulations.** Photo exhibits visualizing the proposed solar energy system, with emphasis on visualizing the location of any required fences, landscaping, access roads, and setbacks from adjacent non-participating property.
10. **Environmental Impact Analysis.** The analysis shall address any potential chemical contamination associated with the solar panels and any battery storage systems. The analysis shall include an Executive Summary that summarizes findings from the analysis and any addenda may be submitted in an electronic format.
11. **Wildlife Impact Study.** The study shall address any potential impacts to wildlife in the project area.
12. **Light and Glare Study and Analysis.** The study and analysis shall comply with the requirements of Section 7.25(3)(d) below.
13. **Electromagnetic Interference Study.** The study shall be completed to assure that there will be no interference or disruption to existing fixed broadcast, retransmission, or reception antenna for global positioning corrections systems, radio, television or wireless phone, internet, or other personal communication systems and otherwise assure that a solar energy facility is not located within the line of sight of existing microwave communication links or operation of a solar energy system likely to produce electromagnetic interference in the links operation. In addition, prior to the installation of a solar energy facility, the applicant shall investigate which potential residences in Fairgrove Township would likely be affected electromagnetic interference, covering a one-mile radius from the solar energy facility.
14. **Maintenance Plan.** Applicant shall submit a maintenance plan that describes the following:
  - i. Demonstrates the solar energy facility will be designed, constructed, and operated to minimize dust generation, including provision of sufficient watering of excavated or graded soil during construction to prevent excessive dust.
  - ii. States the manner how unpaved access roads will be treated and maintained, either with a dust palliative or graveled or treated by another approved dust control method to prevent excessive dust.
  - iii. Provisions that will be employed to maintain and promote natural vegetation while minimizing the proliferation of weeds during and following construction.

15. **Emergency Services.** The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
  16. **Decommissioning.** Copy of the decommissioning plans and a description of how any surety bond is applied to the decommissioning process.
  17. **Complaint Resolution.** Description of the complaint resolution process.
- b. **ADDITIONAL SITE PLAN REQUIREMENTS.** The applicant shall submit a site plan in full compliance with Chapter 9 of this zoning ordinance for each Solar Energy Facility and other solar energy appurtenances. Additional requirements for a Solar Energy Facility site plan are as follows:
1. The project area boundaries,
  2. The location, height, and dimensions of all existing and proposed structures and fencing,
  3. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state-maintained road,
  4. Existing topography,
  5. Water bodies, waterways, wetlands, drainage channels, and drain easements,
  6. A site grading, erosion control and storm water drainage plan. At the Township's discretion, these plans may be reviewed by the Township's engineering firm.
  7. All comments from the Tuscola County Drain Commissioner's office pertaining to the proposed solar energy facility shall be submitted to the Planning Commission.
  8. All new infrastructure, both above and below ground, related to the project. This includes inverters and batteries.
  9. Identification of a construction/set-up/laydown area.
  10. A lighting plan showing locations of light fixtures and specifications for each proposed light fixture. All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
- c. **STANDARDS AND REQUIREMENTS.** Solar Energy Facilities shall meet the following standards and requirements:
1. **Location of Solar Energy Facilities.**
    - i. All Solar Energy Facilities must comply with the requirements established in the Fairgrove Township Zoning Ordinance. In the event other zoning

ordinance requirements are in conflict with the provisions of Section 7.25, the Section 7.25 requirements shall apply.

- ii. Fencing may cross participating properties and is not subject to a setback requirement from adjacent participating property.

Project design and layout will ensure any structures or other improved areas located within the fenced/improved area shall be located a minimum of 350 feet from the wall of the exterior from any residential structure, church, school, family or group child day-care home, bed and breakfast establishments, and other occupied structures.

A minimum setback of 50 feet from any non-participating parcel is required, measured from the nearest edge of solar panel racking.

A setback for any component that is part of the solar energy facility from the property lines of adjacent leased property is not required.

A minimum setback of 100 feet from any public right of way is required, measured from the nearest edge of solar panel racking.

- iii. Solar panels and associated racking is limited in height to sixteen (16) feet above ground level.

## 2. Design and Installation Standards

- i. All proposed facilities shall comply with all applicable local, state, and federal standards and requirements, including electrical, building, and drain codes.
- ii. All electrical connection systems and lines from the Solar Energy Facility to the electrical grid connection shall be located and maintained at a minimum depth of forty-eight (48) inches underground.
- iii. A zoning district's Lot Coverage requirement shall not apply to Solar Energy Facilities.
- iv. The design and construction of Solar Energy Facilities shall not produce electrical emissions that would interfere with aircraft communications systems or navigation equipment.
- v. If the Solar Energy Facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
- vi. The applicant must obtain a driveway permit from the Tuscola County Road Commission or MDOT, as applicable.
- vii. The applicant must obtain any drain permits from the Tuscola County Drain Commission or MDEQ, as applicable.
- viii. The design of Solar Energy Facilities buffers shall use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.

- ix. Lighting shall be consistent with local, state, and federal law, and shall be limited to that required for safety and operational purposes. Lighting shall be shielded from abutting properties.
  - x. All solar energy facilities shall comply with FAA requirements and regulations.
  - xi. If a Solar Energy Facility ownership changes, the new owner/operator must meet with the Fairgrove Township Planning Commission to review the conditions of the Special Land Use Permit within sixty (60) days of the change in ownership.
3. **Noise.** As part of the application, and prior to installation, the applicant shall provide noise modeling and analysis that will demonstrate the Solar Energy Facility, including substations and components, will not exceed the maximum permitted noise levels.

Noise generated by a Solar Energy Facility shall not exceed 55 dB(A) equivalent sound level (Leq) or the ambient Leq sound pressure level plus 5 dB(A) at an inhabited structure on non-participating parcels. Modeling and analysis shall conform to any applicable national standards pertaining to noise and sound pressure measurements.

After installation of the Solar Energy Facility, noise measurements shall be done by a third party, qualified professional according to the procedures in the most current version of the applicable national standards.

All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the noise measurements shall be provided to the Planning Commission within 120 days of the commercial operation of the project.

4. **Light and Glare**

- i. All Solar Energy Facilities shall be placed such that concentrated solar glare and light emissions do not project onto nearby inhabited structures or roadways or otherwise be considered a nuisance.
- ii. The design and construction of Solar Energy Facilities shall not produce light emissions, either direct or indirect (reflective), that would interfere with the operation of motor vehicles on nearby roads.

5. **Landscaping**

- i. Applicant shall submit a landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing, and planting.
- ii. For non-participating residences that abut the solar farm and evergreen vegetative screen shall be planted and maintained if one does not exist already, Land clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the Solar Energy Facility per practices of best management of natural areas or good

husbandry of the land or forest other prescribed by applicable laws, regulations, and bylaws.

- iii. Each owner/operator of a Solar Energy Facility shall utilize good husbandry techniques with respect to said vegetation, including but not limited to, proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time. Plants or grasses not part of landscaping and not farmed crops shall be maintained by the facility operator not to exceed twelve inches in height.
- iv. Applicant must provide a detailed maintenance plan for the proposed solar energy system, and surrounding area, including provisions that will be employed to maintain and promote natural vegetation while minimizing the proliferation of weeds during and following construction. Failure to install or continuously maintain the required vegetative buffer shall constitute a violation of this ordinance.

## **6. Security**

- i. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner; furthermore, an information sign shall be posted and maintained at the entrance(s), which shall list the name and phone number of the operator
- ii. Solar energy facilities shall be surrounded by a fence with a minimum height of four (4) feet and shall not to exceed six (6) feet in height. The fence shall be designed to restrict unauthorized access. The fence can be an agricultural wire knot fence. Barbed wire nor electrical fencing is not permitted.
- iii. No portion of the Solar Energy Facility shall contain or be used to display advertising. The manufacturers' name and equipment information or dedication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulation.

## **7. Abandonment and Decommissioning.**

- i. Abandonment: Any part of a Solar Energy Facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the Solar Energy Facility provides substantial evidence (updated every six months after 12 months of no energy production) to the Planning Commission or its designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and completely restore the property to its condition prior to development of the Solar Energy Facility.
  - a. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible that they must remove the

Solar Energy Facility and restore the site to its condition prior to development of the Solar Energy Facility within six (6) months of notice by the Planning Commission or its designee.

- b. If the responsible party (or parties) fails to comply, the Township or its designee, may remove the Solar Energy Facility, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the Solar Energy Facility and restore the site to a nonhazardous predevelopment condition.
- ii. Decommissioning: A decommissioning plan signed by the party responsible for decommissioning addressing the following shall be submitted prior to the issuance of the zoning permit, which shall include:
- a. The anticipated life of the project;
  - b. The estimated decommissioning costs net of salvage value in current dollars;
  - c. The method of ensuring that funds will be available for decommissioning and restoration, to include but not limited to:
    - 1. Complete removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations, and
    - 2. Complete restoration of property to condition prior to development of the Solar Energy Facility;
    - 3. The anticipated manner in which the project will be decommissioned and the site restored. Decommissioning shall include the removal of each Photovoltaic Panel, all electrical components, and associated facilities within the footprint of the Solar Energy Facility to a depth of four (4) feet below grade.
    - 4. All-access roads to the Solar Energy Facility shall be removed, cleared, and graded by the facility owner, unless the property owner requests, in writing, a desire to maintain the access road. The Township will not be assumed to take ownership of any access road and such remaining roads will not be considered public roads.
    - 5. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner of the Solar Energy Facility or its assigns. If the site is not to be used for agricultural purposes following removal, the site shall be seeded to prevent soil erosion, and restored to its condition existing prior to any construction activities, unless the property owner(s) requests, in writing, the land surface areas not be restored.

- d. A provision to give notice to the Township one year in advance of decommissioning. A surety bond to assure payment of the cost of decommissioning shall be required. To ensure proper removal of the structure when it ceases to be used for a period of one (1) year or more, any application for a new Solar Energy Facility shall include a description of the financial security guaranteeing removal of the Solar Energy Facility which will be posted prior to receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; or 3) performance bond in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments.
- e. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.
- f. The timeframe for completion of decommissioning activities.
- g. A condition of the Surety Bond shall be notification by the surety company to the Township Zoning Administrator and the Township Supervisor thirty (30) days prior to its expiration or termination. At no time may the solar energy facility be operated without a surety bond being in full force and effect.

**8. COMPLAINT RESOLUTION.**

- i. The Solar Energy Facility Applicant shall submit a detailed, written complaint resolution process developed by the Solar Energy Facility Applicant to resolve complaints concerning the construction or operation of the Solar Energy Facility. The complaint resolution process must be approved by the Planning Commission as a condition of approval of the special land use permit application.
- ii. The Planning Commission shall be kept apprised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint. Such report shall be presented every six months by the applicant to the Planning Commission.

**9. CONFLICTING PROVISIONS.** In the event of a conflict between any provision in this section and any other section of this Zoning Ordinance with regard to Solar Energy Facilities, the provisions of this section shall control.

## Section 7.26 – Outdoor Firing Range

An outdoor firing range is allowed as a Special Land Use in the Agricultural zoning district and shall be permitted solely pursuant to the Special Land Use Permit standards described in this chapter and subject to the following requirements:

- a. An “outdoor firing range” is defined as a range used for target, trap, or skeet shooting, training, or for any other use involving the discharge of handguns or other firearms, which is open to members or the general public upon payment of a fee.
- b. The use of the property for an outdoor firing range shall conform to the following:
  1. The minimum required lot size shall be five (5) acres.
  2. All buildings and structures associate with an outdoor firing range shall comply with all applicable state construction and electrical codes and local building permit requirements.
  3. No retail sales or repair of firearms shall be permitted as an accessory use to an outdoor range.
  4. The layout of all handgun, rifle, shotgun, trap, and skeet ranges shall conform to National Rifle Association standards.
  5. Outdoor ranges shall be setback a minimum of 500-feet from adjoining properties and a minimum of 1,500 feet from residential or agricultural buildings or structures.
  6. Outdoor firing ranges shall not be sited within 1.5-miles of residences located in the direct line of fire.
  7. Outdoor ranges shall not be located within 500-feet of an airstrip or runway. No range shall be sited which places any portion of an airstrip within 1.5-miles if the portion is in the direct line of fire.
  8. The range shall be designed to provide protection from accidental or stray ammunition discharge for surrounding properties, as recommended by the current edition of *The NRA Range Source Book, A Guide to Planning & Construction*.
  9. The range shall be developed such that there are no streams, ponds, lakes, or other watercourses located between any firing line and target line or within any shotgun shot fall zone.
  10. Only firearms shall be discharged at the range. No cannons, artillery, or rockets shall be discharged unless blanks are being fired. Cannon is defined as a large, heavy piece of artillery, typically mounted on wheels, formerly used in warfare.
  11. Signs: Signage identifying the range shall be located at intervals of no less than 400 feet around the perimeter of the range.
  12. Access: Ingress and egress to the outdoor firing range shall directly onto or from a public road.



13. Security: Access shall be controlled by a lockable gate.
14. Parking: At a minimum, there shall be 1.5 parking places for each firing position.
15. Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from all residences which adjoin the site.
16. Hours of operation: Outdoor firing ranges shall not be permitted to operate between the hours of dusk to dawn.

## **Section 7.27 – Soil Resource Extraction and Pond Construction**

### **Subsection 7.27a – Soil Resource Extraction**

- a. Scope: This sub-section regulates extraction, filling, or repositioning of soil, sand, gravel, clay, or other geologic deposit involving disturbance of more than one thousand (1,000) cubic yards of material when such disturbance is not related to construction of a building, structure, or parking lot. This sub-section also applies to artificial ponds created by soil excavation or intervention in watercourses, surface drainage, or groundwater aquifers, regardless of size and whether the creation of the pond is an end in itself or merely a by-product of soil extraction activity. Allowable Federal and State programs are exempt from this Section. Oil wells are specifically exempted from this Section, because they are regulated solely by the Michigan Department of Natural Resources.
- b. Additional Information Required: The Site Plan for any activity regulated by this sub-section must include the following additional information
  1. A profile of the proposed excavation, illustrating elevations and changes in slope, with elevations noted in five (5) foot intervals. If water is expected to accumulate in the excavation, the projected water level must also be shown.
  2. A soil evaluation report describing the excavation site and any needed drainage or seepage corrections.
  3. Location of well and/or septic system in relation to the proposed excavation.
- c. Conditions of any required environmental permits shall be obeyed at all times. All required State and County permits must be obtained after approval of site plan. Compliance with PA 347 of 1972, the Michigan Soil Erosion and Sedimentation Control Act, is also required.
- d. Expansions to any existing soil resource extraction operation requires a special land use permit and must conform to the standards set forth in Chapter 7.

### **Subsection 7.27b – Excavation Site Requirements.**

- a. Avoid sites of ecological significance, such as wetlands or mature forest. If wetlands are to be affected, a State permit may be needed.

- b. Excavations that create ponds should be located to minimize the chance of pollution from sources such as feedlots, corrals, or septic tanks.
- c. Excavations may be no closer than fifty (50') feet, measured horizontally, to a power line or utility wire, and may not be within a public utility or transportation easement.
- d. Excavations must maintain required yard setbacks of the Agricultural district regulations, but no less than twenty-five (25) feet from any side.

**Subsection 7.27c – Construction and Operation Requirements.**

- a. An excavation should not change surface drainage or underground aquifers to adversely impact neighboring uses.
- b. Any excavated material not removed from the site shall be graded to a continuous slope that does not exceed one (1) foot vertical to three (3) feet horizontal and arranged to prevent runoff from impacting adjacent properties. As an alternative, the material may be shaped in berms which assume a natural angle of repose for the material and which blend visually with the landscape. The toe of the slope of such berms shall be no closer than twelve (12) feet to the edge of the water in any pond formed by such an excavation.
- c. No machinery or equipment shall operate, and no trucks, trailers, or other conveyances shall arrive at any excavation site before 6:00 a.m. or after 9:00 p.m., or as otherwise specified by the Planning Commission.
- d. Proper measures shall be taken to minimize the nuisance of traffic noise and flying dust or soil while a site is being excavated.
- e. Excavation site shall be at least two hundred (200) feet from any parcel zoned either for residential or commercial purposes.
- f. Where the excavation site is determined by the Planning Commission to be a public hazard, all uses shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the property or portion thereof. Fences shall be constructed and maintained to prevent trespass, and shall be placed no closer than twenty-five (25) feet to the top or bottom of any slope.

**Subsection 7.27d – Pond Construction.**

- a. Scope: This sub-section regulates the creation of artificial ponds created by soil excavation or intervention in watercourses, surface drainage or groundwater aquifers. Pond Construction, regardless of size and whether the creation of the pond is an end in itself or merely a by-product of soil extraction activity. Ponds created by embankments or dams across streams or watercourses are not permitted in Fairgrove Township.
- b. Site Plan for any activity regulated by this subsection must include all information required by Sections 301 and 303 of the Natural Resources and Environmental Protection Act of 1994, as administered by the Michigan Department of Environmental

Quality (MDEQ) under PA 451 and PA 347 of 1972. In general, the MDEQ requires a permit prior to construction of a pond if the pond will be:

1. Within 500 feet of a lake or stream, or connected to a lake or stream;
  2. within a regulated wetland;
  3. within the 100-year floodplain of a river or stream;
  4. five (5) surface acres or more in size;
  5. created by construction of a dam across a river or stream. Dams with a height of six feet or more and which impound five acres or more, will require a plan prepared by a licensed engineer.
- c. The following information is required for the site plan, whether an MDEQ permit is required or not:
1. The specifications for any spillway or drain for a proposed pond, including the proposed methods of foundation preparation or fill placement.
  2. Location of well and/or septic system in relation to the proposed pond.
- d. Conditions of any required environmental permits shall be obeyed at all times. All required State and County permits must be obtained after approval of site plan. Compliance with PA 347 of 1972, the Michigan Soil Erosion and Sedimentation Control Act, is also required.
- e. Expansions to any existing pond require a special use permit and must conform to the standards set forth in Chapter 7.

#### **Subsection 7.27e – Pond Site Requirements.**

- a. Avoid sites of ecological significance, such as wetlands or mature forest. If wetlands are to be affected, a State permit may be needed.
- b. Activities that create ponds should be located to minimize the chance of pollution from sources such as feedlots, corrals, or septic tanks.
- c. Ponds may be no closer than fifty (50) feet, measured horizontally, to a power line or utility wire, and may not be within a public utility or transportation easement.
- d. Ponds may be no closer than twenty-five (25) feet from the minimum yard setback of the principal structure or use.

**Subsection 7.27f – Construction and Operation Requirements.**

- a. A pond should not change surface drainage or underground aquifers so as to adversely impact neighboring uses.
- b. Any pond banks shall have a maximum slope of one (1) foot vertical to four (4) feet horizontal which extends below the projected low water surface elevation to a depth of at least eight (8) feet.
- c. Minimum designed water depth of a pond must be fifteen (15) feet to insure proper aeration and circulation of the water.
- d. All required environmental permits shall be obtained and obeyed, including:
  1. Sections 301 and 303 of the Natural Resources and Environmental Protection Act of 1994, as administered by the Michigan Department of Environmental Quality under PA 451, and
  2. The soil and sedimentation control permit under PA 347.
  3. Any excavated material not removed from the pond site shall be graded to a continuous slope that does not exceed one (1) foot vertical to three (3) feet horizontal and arranged to prevent runoff from impacting adjacent properties.
  4. By October 15 of each year, the completed portion of a pond, its related excavation activities, and any disturbed area around it, shall be graded and, where appropriate, seeded
  5. No machinery or equipment shall operate, and no trucks, trailers, or other conveyances shall arrive at any pond or excavation site before 6:00 a.m. or after 9:00 p.m.
  6. Proper measures shall be taken to minimize the nuisance of traffic noise and flying dust or soil while a pond is being excavated.
  7. Where the water body is determined by the Planning Commission to be a public hazard, all uses shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the property or portion thereof. Fences shall be adequate to prevent trespass, and shall be placed no closer than twenty-five (25) feet to the top or bottom of any slope.
  8. Ponds constructed for recreational purposes must be located such that all setback requirements are maintained.

## **Chapter 8 – Administration**

### **Section 8.1 – Zoning Administrator**

Unless otherwise designated under a specific provision of this zoning ordinance, the Zoning Administrator shall be responsible for the administration of this zoning ordinance. The Zoning Administrator shall be a qualified individual appointed by the Board of Trustees. The terms, conditions, and rate of compensation shall be determined by the Board. The Zoning Administrator shall perform, but not necessarily be limited to, the following duties:

- a. **Receive Applications and Issue Permits:** All applications for zoning permits, including permits for signs, businesses, home occupations, dwellings, special land uses, temporary uses, and temporary dwellings, as well as applications for appeals, site plan and plot plan approvals; and requests for changes to a nonconforming use shall be submitted to the Zoning Administrator who may issue permits when all applicable provisions of this zoning ordinance have been met and, where necessary, approval has been granted by the Planning Commission, Board of Trustees, or Zoning Board of Appeals.
- b. **Maintain File of Applications and Permits:** The Zoning Administrator shall maintain files of all permit applications, and shall keep a record of all permits issued. The Zoning Administrator shall provide the Township Clerk with a copy of all zoning permits, which shall be filed in the office of the Township Clerk and shall be available for public inspection.
- c. **Inspections:** The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this zoning ordinance and shall make such inspections, at a minimum, at the time of staking out of building foundations or structure locations and upon completion of construction authorized by the permit. It shall be the responsibility of the permit holder to notify the Zoning Administrator when construction activities are ready for a zoning compliance inspection. No person shall harm the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek authority through the Township Supervisor to obtain a search warrant through the Township Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this zoning ordinance.
- d. **Record of Complaints:** The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this zoning ordinance, and of the action taken consequent to each complaint; such records shall be open for public inspection.
- e. **Violations:** Enforcement actions may be initiated by a complaint, or by the Zoning Administrator independently anytime he or she identifies a violation.
- f. **Report to the Board of Trustees:** The Zoning Administrator shall report to the Board of Trustees periodically, summarizing for the period since the last previous report, all Zoning Permits issued and all complaints of violation and any action taken on each complaint.

### **Section 8.2 – Zoning Permit Required**

Except as otherwise provided, no building or structure of any kind, including signs, shall be erected or any restricted use undertaken until a permit has been issued by the Zoning Administrator. Once it has been determined by the Zoning Administrator that the proposed building, structure, or use is in conformance with all the provisions of this zoning ordinance and appropriate fees are paid, a Zoning Permit may be issued. The Zoning Permit shall be non-transferable and shall remain valid for one (1) year from the date of issuance. A Zoning Permit must be obtained prior to the application for a building permit.

### **Section 8.3 – Application for Zoning Permit**

All applications for Zoning Permits shall be made to the Zoning Administrator with the accompanying fee. The fee shall be set by the Board of Trustees. The application shall be comprised of the following:

- a. A site plan if required per Section 9.2, or plot plan, showing the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, property lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells, and lakes, streams, or wetlands, and any other items required by this zoning ordinance to illustrate the intended use and its site; or the site plan approved by the Planning Commission or Zoning Board of Appeals. The Zoning Administrator may require an applicant to provide a survey of the subject lot or parcel, identifying a proposed use or structure location, if in his or her judgment it is necessary to clarify any indefinite or disputed issue(s).
- b. A statement by the applicant outlining the intended use and purpose for the proposed building, structure, or land in question.

### **Section 8.4 – Processing of Application**

The Zoning Administrator shall review the zoning permit application to determine that it is complete and, if so, forward the application to the Planning Commission, unless the Zoning Administrator is the approving body as permitted in Chapter 9 – Site Plan Review.

### **Section 8.5 – Issuance of Zoning Permit**

Within ten (10) days of the receipt of an application for a Zoning Permit, or an approved Site Plan from the Planning Commission, the Zoning Administrator shall issue a Zoning Permit when:

- a. The Zoning Permit application is complete and that the proposed building, structure, and/or use is in conformance with the requirements of this zoning ordinance and all required fees are paid,
- b. In the case of an approved Site Plan from the Planning Commission, that all conditions have been satisfied and all required fees are paid.

The Zoning Administrator shall keep a record of all permits issued and report these on a regular basis to the Planning Commission and the Board of Trustees.

### **Section 8.6 – Failure to Obtain Permit**

Failure to obtain a Zoning Permit prior to new construction or the establishment of a use shall be a violation of this zoning ordinance and is subject to the issuance of a penalty.

### **Section 8.7 – Denial of Zoning Permit**

Within ten (10) days of the receipt of the application for Zoning Permit, the Zoning Administrator shall deny a Zoning Permit if it is found that the application is not complete or that the proposed building, structure, or use cannot be located in conformance with the requirements of this zoning ordinance, or the required fees are not paid. The Zoning Administrator shall inform the applicant in writing of the reasons for the denial of the permit. The Zoning Administrator shall keep a record of all permits denied and report these regularly to the Board of Trustees.

### **Section 8.8 – Revocation of Zoning Permit**

The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this zoning ordinance, or in the case of any false statement or misrepresentation made in the application. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

### **Section 8.9 – Appeals of the Decision of the Zoning Administrator**

Any decision of the Zoning Administrator concerning the enforcement or interpretation of this zoning ordinance may be appealed to the Zoning Board of Appeals. The appeal, along with the appropriate fee, shall be filed with the Township Clerk within ten (10) days of the decision of the Zoning Administrator. The Zoning Board of Appeals shall review the available evidence and make a decision to uphold or reverse the decision of the Zoning Administrator.

### **Section 8.10 – Enforcement**

- a. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this zoning ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be violations of this zoning ordinance shall be reported to the Zoning Administrator.
- b. The Zoning Administrator shall inspect all alleged violations of this zoning ordinance. In the event that a violation is found, the Zoning Administrator shall issue within seven (7) days from the date of inspection, a “Notice of Zoning Ordinance Violation” to correct the violation and to otherwise comply with the provisions of this zoning ordinance.
- c. After the order to correct has been issued, the violation shall be corrected within thirty (30) days. If the violation cannot be corrected within 30 days, an application to extend the correction period may be made to the Board of Trustees. Any violation not corrected shall be reported to the Board of Trustees. The Board of Trustees may then refer the matter to the Zoning Administrator.

- d. Any person, firm, or organization that violates or refuses to comply with any provision of this Ordinance or lawful order of the Zoning Administrator, Zoning Board of Appeals, or Board of Trustees issued pursuant to this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, one shall be punishable by a fine not to exceed five hundred (\$500.00) dollars. Each day during which a violation continues shall be deemed a separate offense. The Board of Trustees reserves the right to pursue civil remedies (the collection of fees, injunctive relief, and corrective measures) for certain provisions of this Ordinance in accordance with applicable state statutes.

### **Section 8.11 – Public Hearing Notice Requirements and Procedures**

A reasonable time and place shall be established for any public hearing required by or held under provisions of this zoning ordinance. A public hearing date, time, and location may be set by the Township Clerk. Such hearings shall be held in accordance with the Michigan Zoning Enabling Act (PA 110 of 2006), as amended, and the following:

- a. Public Notice. Notice of the public hearing shall be required in accordance with the following:
  1. Minimum notice contents. The notice shall include the time and place of the hearing, the name of the body charged with conducting the hearing, a summary of the subject and purpose of the hearing, and a listing of the methods by which questions can be addressed and comments provided to the body charged with conducting the hearing.
  2. Address of the property. The notice shall indicate the property that is the subject of the request, and shall include a listing of all existing street addresses for the subject property.
    - i. Street addresses do not need to be created and listed if no such addresses currently exist for the subject property. If there are no street addresses, other means of property identification may be used.
    - ii. For any group of eleven (11) or more adjacent lots or parcels proposed for rezoning, individual addresses shall not be required to be listed on the notice.
  3. Posting and publication. The notice shall be posted at the Township Hall and published once in a newspaper of general circulation in the Township.
  4. Notification of the applicant and property owner. The notice shall be sent by mail or personal delivery to the applicant and owner(s) of property for which approval is being considered.
  5. Delivery of public notices. The notice shall be sent by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the subject property, and to all occupants of structures within 300 feet of the boundary of the subject property, regardless of whether the property or occupant is located in the zoning jurisdiction.
    - i. If the name of the occupant is not known, the term “occupant” may be used in making notification.
    - ii. Delivery of such notices shall not be required for amendments to or interpretations of the text of this Ordinance, appeals of administrative decisions, and any group of eleven (11) or more adjacent lots or parcels proposed for rezoning.
    - iii. Such notices need not be given to more than one (1) occupant of a building, except as follows:



- a. If a building contains more than one (1) dwelling unit owned or leased by different persons, one (1) occupant of each unit shall be given notice.
  - b. If a building contains more than four (4) dwelling units owned or leased by different persons, notice may be given to the building owner or manager with a request to post the notice at the primary building entrance.
- 6. Timing of notice posting, publication, and mailing. The notice shall be posted, published, and mailed or personally delivered in accordance with the requirements of this Section not less than 15 days before the hearing date when the application will be considered.
- b. Pre-Hearing Examination.  
Upon reasonable request, any person may examine the application and all other documents on file with Fairgrove Township pertaining to the subject and purpose of the hearing.
- c. Right to Submit Written Statements.  
Any person may submit written comments about the subject and purpose of the hearing prior to a hearing, or following such hearing within such time as the hearing body may allow. Such statements shall be made a part of the public record of the hearing.
- d. Rights of All Persons.  
Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney. Documentary evidence may be submitted for consideration, provided that the hearing body shall exclude such evidence deemed irrelevant, immaterial or unduly repetitious.
- e. Adjournment.  
The Planning Commission may at any time, on its own motion or at the request of any person, adjourn the public hearing to a reasonable and fixed future date, time, and place for the purpose of accumulating further evidence or information, or for such other reasons that the Planning Commission finds to be sufficient. No additional public notice is required beyond that already given for the original hearing.

### **Section 8.12 – Amendments**

Amendments to this ordinance may be initiated by the Board of Trustees on its own motion and in the manner established herein after; by any person, firm, or corporation filing an application for amendment with the Board of Trustees; or by the Township Planning Commission. All amendments shall be made in conformance with the procedures specified in P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*), and the following procedures and specifications:

- a. Amendment Procedures: Filing of applications. All petitions for amendments to this ordinance shall be in writing, signed, and filed with the clerk for presentation to the Planning Commission. All petitions for amendments to this zoning ordinance, without limiting the right to file additional material, shall contain the following:

1. General Information: The petitioner's name, address, and interest in the petition, as well as the name, address, and interest of every person, firm, or corporation having a legal or equitable interest in the land; the nature and effect of the proposed amendment;
  2. Zoning Map Change: A fully dimensional map, showing the land which would be affected by the proposed amendment, (if the proposed amendment would require a change in the Zoning Map) a legal description of such land; the present zoning clarification of the land; the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.
- b. Property Rezoning: Upon completion of its draft of a zoning ordinance (or any amendment), the Planning Commission shall hold a public hearing per the requirements of Section 8.11.
  - c. Planning Commission Actions: Following the public hearing, the Planning Commission shall transmit a summary for the public hearing comments, the recommended change and the reasons for the recommendation to the County Planning Commission and the Township Board through its clerk, the date of submission to the county and Township may cause a stay of Township Board consideration of the matter for thirty (30) days to provide the required time for county action.
  - d. Review Procedure: After the thirty (30) day review period, the Township Board shall commence consideration of the Planning Commission recommendation. In this regard the Township Board may decide to hold additional hearings on the proposed amendment if in its judgment it deems further hearings to be necessary. Notice of such additional hearing shall comply to the requirements of Section 8.11. In the event the Township Board considers amendment changes, additions, or departures advisable to the proposed text or zoning ordinance the Township Board shall refer these back to the Planning Commission for a report on these matters to be returned upon a specified date the Township Board. After receiving the report, the Township Board shall grant a hearing on a proposed ordinance provision to a property owner who, by certified mail addressed to the Township Clerk, requests a hearing.
  - e. Notice of Adoption: Upon Township Board adoption, the amendments or supplements shall be filed with the Township Clerk and one notice of adoption shall be published in a newspaper of general local circulation within fifteen (15) days after adoption. The notice of adoption shall include the following information:
    1. A summary of the regulatory effect of the amendment, including the geographic area(s) affected, or the text of the amendment as adopted.
    2. Effective date of the amendment.
    3. The place and time where a copy of the ordinance may be purchased or inspected.
  - f. Re-submittal Procedure: No petition for rezoning, which has been disapproved by the Township Board shall be submitted for a period of one (1) year from the date of disapproval, except as may be permitted by the Township Board after learning of new and significant facts or conditions which may result in favorable action upon Re-submittal.

## **Chapter 9 – Site Plan Review**

### **Section 9.1 – Intent**

In order to reduce the significant impacts of development on natural resources and adjacent land uses and to ensure that public services and infrastructure are utilized in an efficient manner, it is the intent of this Chapter to require approval of a site plan for certain uses that can be expected to impact natural resources and surrounding land uses.

### **Section 9.2 – Uses, Buildings, and Structures Subject to Site Plan Review**

Prior to the establishment of a new use, change of use, addition to existing use, or erection of any building or structure in an authorized zoning district, a site plan shall be submitted for review and be approved, approved with conditions, or not approved by the Fairgrove Township Planning Commission in accordance with the requirements of this Chapter.

- a. Site Plan reviews are required for all permitted uses and structures in all zoning districts except for single-family detached and two-family dwellings and accessory uses, and any agricultural uses. The site plan shall be part of the record of approval and shall be so filed.
- b. When proposed new construction or remodeling is an addition to an existing building or use, site plan review procedures may be modified, at the discretion of the Planning Commission, to provide for review by the Zoning Administrator in lieu of a more formal review by the Planning Commission. The Zoning Administrator may conduct an administrative review provided both of the following conditions are satisfied:
  1. No variances are required and site plan approval shall coincide with intent and purpose of the Zoning ordinance and Master Plan.
  2. The proposed new construction would not increase the total square feet of the building more than twenty-five (25) percent or one thousand (1,000) square feet, whichever is less.
- c. For cases requiring site plan review solely as a result of building re-occupancy, site plan review procedures may be modified at the discretion of the Planning Commission, to provide for an administrative review by the Zoning Administrator in lieu of a formal review by the Planning Commission provided the following conditions are met.
  1. Such use is conducted within a completely enclosed building.
  2. Re-occupancy does not create additional parking demands beyond twenty-five (25) percent of that which exists.
  3. Re-occupancy does not substantially alter site character.
- d. Every site plan submitted for review shall be in accordance with the requirements of this Zoning Ordinance. Administrative review procedures shall not modify any regulation or development standard or adversely affect the health, safety and welfare of Fairgrove Township residents.

### **Section 9.3 – Application and Fee**

An application for site plan review shall be made by filing the application form, required information, and the required fee, including any fees to be deposited in an escrow account, with the Zoning Administrator. Once deemed complete, the Zoning Administrator shall forward the application and fee to the Township Clerk. Such fees are necessary to pay for professional services related to site plan review, engineering reviews, and staffing planning commission meetings.

The application fee and any additional fees to be deposited in an escrow account to pay for professional planning and engineering services shall be set by resolution of the Fairgrove Township Board. Once accepted by the Clerk, no portion of the application fee shall be returned to the applicant, unless authorized by an action of the Township Board.

### **Section 9.4 – Required Information**

The submission for site plan review shall at a minimum contain the following:

- a. The applicant's name, legal description, address, and tax parcel number of the property.
- b. Legal description, address, and tax parcel number of the property.
- c. Ten copies of a site plan at a scale of not less than one (1) inch equals 100 feet. The site plan shall illustrate the following:
  1. All property dimensions
  2. Topographic elevations at two (2) foot intervals when deemed necessary by the Zoning Administrator or the Planning Commission
  3. Existing vegetation
  4. Water courses and waterways, including man made improvements
  5. Existing natural features to be retained and/or removed. Locations of natural features, including woodlands and areas with slopes greater than 10% (one foot vertical elevation for every ten feet of horizontal distance).
  6. Existing public and private rights of way, pavements, and easements
  7. Existing and proposed buildings, structures, grading, and uses and their relationship to required setbacks
  8. Zoning classifications of adjacent properties
  9. The name and address of the person or firm that prepared the plan, and the date it was completed.

### **Section 9.5 – Site Plan Review Procedure**

- a. Once forwarded to the Township Clerk by the Zoning Administrator, the Clerk shall forward the application and supporting materials to the Planning Commission.
- b. The Planning Commission shall review the application and site plan for completeness. In the event that the application is not considered complete, the applicant shall be informed why it is incomplete.
- c. The Planning Commission shall review the site plan for conformance to the standards and requirements set forth elsewhere in this Chapter.

- d. The Planning Commission may request/require written statements assessing the potential impacts of the proposed use and structures from the local school district, or any other agency or department that may have jurisdiction or an interest in the project.
- e. Following its review of the proposed site plan, the Planning Commission shall take one of the following actions:
  1. Approve the site plan if it is found to satisfy the requirements of this Chapter.
  2. Place conditions on the site plan approval to ensure that it satisfies the requirements of this Chapter and this Ordinance.
  3. Deny the site plan if it is found that the proposed site plan fails to satisfy the requirements of this Chapter and this Ordinance. In the event of denial, the applicant shall be informed of the decision in writing, with the reasons for denial contained in the letter.

The Planning Commission shall generally render its decision within 45 days from the date the application was determined complete by the Zoning Administrator. The 45-day time period may be extended by the mutual consent of the applicant and the Planning Commission.

### **Section 9.6 – Standards and Requirements for Site Plan Approval**

In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to assure that no undesirable health, safety, noise, and traffic conditions will result from the development, the Planning Commission shall determine whether the site plan meets the following criteria, unless the Planning Commission determines that one or more of the criteria are inapplicable:

- a. All uses, structures and buildings satisfy all the minimum dimensional requirements for the district for which the uses, structures or buildings are located.
- b. To the greatest extent possible, the existing topography and vegetation shall be preserved. The site shall be developed in a manner which limits the destruction of natural features.
- c. The site plan shall provide for visual screening between uses that are located in different districts. Fences and landscape materials shall be used as screening materials.
- d. All storm water shall be detained on site for controlled release. Special attention shall be given to proper site drainage such that the controlled release of storm waters will not adversely affect neighboring properties. Parking areas shall be designed so storm water drains from the parking area.
- e. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not cause dangerous conditions along public roads or streets.
- f. All buildings and groups of buildings or structures are arranged to allow emergency access to and from all sides.

- g. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to the location and number of access points, general interior circulation, the separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and that do not, insofar as practicable, detract from the design of the proposed buildings and structures and the neighboring properties.
- h. Pedestrian walkways shall be provided as deemed necessary by the Planning Commission for separating pedestrian and vehicular traffic.
- i. Natural resources including lakes, ponds, streams, woodlands, and wildlife habitat are not destroyed or adversely impacted by the proposed uses, structures, or buildings.
- j. That the uses, structures, and buildings are appropriately designed and scaled for the site for which they are proposed.
- k. That all necessary permits or authorization from other regulatory agencies have been obtained or are in the process of being obtained such as, though not limited to, soil erosion control, storm water discharge, wells, and septic systems.
- l. That the proposed uses, structures and buildings are not in conflict with other provisions of this Zoning Ordinance, other Township Ordinances, or County, State and Federal statutes and regulations.

**Section 9.7 – Conditions and Safeguards**

To ensure the protection of public health, safety and welfare, and to protect adjacent property owner’s rights, it may be necessary to impose conditions and safeguards as part of the authorization for site plan approval. Said conditions and safeguards may also be necessary for the uses, structures, and buildings to conform to the requirements and standards of this Chapter.

**Section 9.8 – Appeal of Site Plan Review Decisions**

Any person aggrieved by the decision of the Planning Commission in the approval or denial of a site plan review may appeal said decision to the Zoning Board of Appeals (ZBA). The appeal fee shall be set by a resolution of the Township Board. The fee shall entitle the appellant to a decision. The appellant shall file a letter with the Township Clerk within 10 days of the decision of the Planning Commission on the site plan. The appellant’s letter shall specify the grounds for the appeal, and the appeal shall be limited to the issues raised in the letter.

- a. In its review of the decision, the ZBA shall consider the following:
  - 1. The appellant’s letter and validity of grounds for appeal.
  - 2. The minutes taken during the Planning Commission’s review of the site plan.
  - 3. Any other documentation presented to the Planning Commission prior to its decision on the site plan.
  - 4. Any verbal or written information submitted to the ZBA in response to a request for the information by the ZBA.

- b. In its determination of the appeal, the ZBA may take any of the following actions:
  - 1. Affirm the decision of the Planning Commission with or without modification.
  - 2. Refer the matter back to the Planning Commission for consideration, study or additional documentation. The ZBA shall inform the Planning Commission of the issues that it believes are in need of further consideration, study or documentation.
- c. The ZBA shall generally render a decision on the appeal within 60 days from the date the Township Clerk received the appeal. The time period may be extended upon the mutual consent of the appellant and the ZBA.

**Section 9.9 – Special Land Uses and Concurrent Approvals**

The Planning Commission may choose to review special land use permit and site plan review submittals concurrently. In the event of concurrent review, the Planning Commission shall make sure that both the site plan and special land use submittals satisfy all requirements of the Ordinance.

**Section 9.10 – Amendments to Approved Site Plans**

Any proposed addition, modifications or alterations to any uses, structures or buildings shall structures approved on a site plan, shall be reviewed by the Zoning Administrator. The Zoning Administrator shall make a determination whether the proposed addition, alteration or modification is a minor or major amendment. Minor amendments may be approved by the Zoning Administrator, provided that a revised and dated site plan is submitted and made part of the project file. Major amendments shall be reviewed by the Planning Commission in accordance with the standards set forth in this Chapter.

## Chapter 10 – Zoning Board of Appeals

### Section 10.1 – Authorization

There is hereby established a Zoning Board of Appeals, which shall derive its authority from the Michigan Zoning Enabling Act (PA 110 of 2006), as amended. The Zoning Board of Appeals shall ensure that the spirit and intent of this zoning ordinance is upheld, that the public health, safety, and welfare is advanced, and that substantial justice is done.

### Section 10.2 – Membership and Procedures

- a. **Membership.** The Zoning Board of Appeals shall consist of three members. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission, one member may be a member of the Board of Trustees, and the remaining member shall be selected and appointed by the Board of Trustees from among the electors residing in the unincorporated area of the Township. An elected officer of Fairgrove Township may not serve as Chair of the Zoning Board of Appeals. An employee or contractor of the Board of Trustees may not serve as a member or employee of the Zoning Board of Appeals. A member of the Zoning Board of Appeals may be removed by the Board of Trustees for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.
- b. **Alternates.** The Board of Trustees may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called upon to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend one or more consecutive meetings of the Zoning Board of Appeals, or is absent from or will be unable to attend meetings for a period of more than thirty consecutive days. 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. The alternate member shall serve on the Zoning Board of Appeals until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
- c. **Terms of Office.** Terms of Zoning Board of Appeals members shall be for three years, except for members of the Planning Commission or Board of Trustees, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than one month after the term for the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. All current members of the Zoning Board of Appeals shall serve their remaining portions of their terms at which point the above shall obtain.
- d. **Per Diem or Expenses.** The total amount allowed such Zoning Board of Appeals in one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Township Board.



- e. **Rules of Procedure.** The Zoning Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Zoning Board of Appeals shall choose a Chair, and in the Chair's absence, an Acting Chair.
- f. **Meetings.** Meetings shall be held at the call of the Chair and at such other times as the Zoning Board of Appeals in its rules of procedure may specify. A simple majority of the membership of the Zoning Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Zoning Board of Appeals. All meetings of the Zoning Board of Appeals shall be open to the public.
- g. **Records.** Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members of the final disposition of each case. Such minutes shall be filed in the office of the Township Clerk and become public records.
- h. **Majority Vote.** The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision of the Zoning Administrator, to decide in favor of the applicant any matter upon which the Zoning Board of Appeals is required to pass, or to grant any variance of the terms or conditions of this zoning ordinance.
- i. **Decisions.**
  - 1. The Zoning Board of Appeals shall return a decision upon each case within thirty days of the filing of a request or appeal unless a further time is agreed upon by the parties concerned. Any decision of the Zoning Board of Appeals shall not take effect until the expiration of five days after the date of said decision, unless the Zoning Board of Appeals certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights.
  - 2. No Zoning Permit authorized by such a decision shall be issued until the decision has taken effect.
  - 3. The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county. An appeal from a decision of a Zoning Board of Appeals shall be filed within whichever of the following deadlines comes first:
    - i. Thirty days after the Zoning Board of Appeals issues its decision in writing signed by the Chair, if there is a Chair, or signed by the members of the Zoning Board of Appeals, if there is no Chair.
    - ii. Twenty-one days after the Zoning Board of Appeals approves the minutes of its decision.
- j. **Conflict of Interest.** A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- k. **Duties.** The Township Zoning Board of Appeals shall have the power to act on those matters where this zoning ordinance provides for an administrative review, interpretation, or variance as defined in this Chapter.

- I. **Not Voting Twice on the Same Issue.** A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Board of Trustees shall not participate in a public hearing or vote on the same matter that the member voted on as a member of the Planning Commission or the Board of Trustees. However, the member may consider and vote on other unrelated matters involving the same property.

### **Section 10.3 – Appeals**

- a. The Zoning Board of Appeals is authorized to review all decisions made in the administration of this zoning ordinance. In addition to interpretations and variances, the Zoning Board of Appeals shall have the authority to hear appeals concerning:
  1. All questions that arise in the administration of the zoning ordinance, including interpretation of the zoning map.
  2. All administrative orders, requirements, decisions or determinations made by an administrative official or body charged with enforcement of the zoning ordinance.
  3. All decisions of the Zoning Administrator.
  4. All decisions concerning site plan review.
- b. Appeals pertaining to Planning Commission decisions regarding Special Land Use Permit applications shall be considered by the Circuit Court and shall not be considered by the Zoning Board of Appeals.
- c. A fee as established by the Board of Trustees shall be paid to the Zoning Administrator at the time of filing application with the board. The purpose of such fee is to cover in part the necessary advertisements, investigations and other expenses incurred by the Zoning Board of Appeals in connection with the appeal.
- d. Upon receipt of a demand for appeal, the Township Clerk will review the demand for appeal to ensure it is complete and the fee is paid.
  1. If the application is not complete, the Township Clerk will return the application to the applicant with a letter that specifies the additional material required.
  2. If the application is complete, the Township Clerk shall establish a date to hold a hearing on the appeal.
- e. The appeal stays all proceedings in furtherance of the action appealed, unless the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril of life or property, in which case proceedings may be stayed by a restraining order issued by the Zoning Board of Appeals or a circuit court.
- f. The Zoning Board of Appeals shall hold a hearing on the demand for appeal. Notices shall be given in accordance with Section 8.11 of this zoning ordinance.
- g. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit.

### **Section 10.4 – Interpretation**

Upon application or petition and the filing of the appropriate fees, the Zoning Board of Appeals shall be authorized to interpret any uncertainty that may occur in the administration of this zoning ordinance. The Zoning Board of Appeals shall:

- a. Determine the precise location of the boundary lines between zoning districts when there is a question about the exact location.
- b. Classify any activity which is not specifically mentioned in the district regulations for any Uses Permitted by Right or allowed by Special Land Use Permit. The basis for such classification shall be that the activity is consistent and similar to the uses already listed in the district, and that the activity is not listed in another district.
- c. The Zoning Board of Appeals may determine the off-street parking and loading space requirements for any use or activity which cannot be determined under the provisions of this zoning ordinance.
- d. The Zoning Board of Appeals may interpret any provision of this zoning ordinance when the Zoning Administrator is unable to clearly determine its intent or purpose.

A majority vote of the membership of the Zoning Board of Appeals is necessary to rule on an interpretation of the ordinance. The decision shall be in writing and reflect the reasons for the decision.

The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.

### **Section 10.5 – Variances**

The Zoning Board of Appeals is authorized to grant, upon application, variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this zoning ordinance which is dimensional in nature may be brought before the Zoning Board of Appeals to be considered for a variance. The Zoning Board of Appeals shall base its decision on variances from the strict requirements of this zoning ordinance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done based on the following standards:

- a. A variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that a practical difficulty exists by showing all of the following:
  1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.
  2. That the need for the requested variance is not the result of actions of the property owners or previous property owners (self-created).
  3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

4. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
  5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
- b. The Zoning Board of Appeals shall either grant, grant with conditions, or deny the application for a variance. A majority vote of the membership of the Zoning Board of Appeals is necessary to grant a variance. The decision shall be in writing and reflect the reasons for the decision.
  - c. Any variance that is denied wholly or in part shall not be resubmitted for review for a period of one year from the date that the Zoning Board of Appeals last took action on the request unless substantive new evidence is to be presented or new circumstances arise.
  - d. No use variances may be granted by the Zoning Board of Appeals.