

ALMENA TOWNSHIP VAN BUREN COUNTY, MICHIGAN

ZONING ORDINANCE

Ordinance Number 100
Adopted: October 13, 2009
Effective Date: October 23, 2009
Revised Date: October 1, 2010
Revised Date: May 27, 2011
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Revised Date: June 15, 2015
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Revised Date: February 8, 2017
Revised Date: December 13, 2017
Revised Date: February 1, 2019
Revised Date: April 5, 2019

**ZONING ORDINANCE OF THE
TOWNSHIP OF ALMENA
Van Buren County, Michigan**

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Repeals and replaces Ordinance Number 60, with all amendments through Ordinance 100.

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ORDINANCE NUMBER 100

Adopted: October 13, 2009 Effective: October 23, 2009

ALMENA TOWNSHIP ZONING ORDINANCE

ARTICLE I

SHORT TITLE, ENABLING AUTHORITY, PREAMBLE AND ENACTING CLAUSE

The Township of Almena, Van Buren County, Michigan ordains:

Section 1.01 - Short Title

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

Section 1.02 - Preamble and Purpose of this Zoning Ordinance

It is the express purpose and intent of this Zoning Ordinance, pursuant to the authority conferred by the Public Acts of the State of Michigan to promote and protect the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township by protecting and conserving the character, social, and economic stability of the agricultural, residential, commercial, industrial, and other use areas by: 1) securing the most appropriate use of land in the Township; 2) preventing overcrowding of the land and undue congestion of population; 3) providing adequate light, air, and reasonable access; and 4) facilitating adequate and economical provision of transportation, public services, school, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan.

Section 1.03 - State Legislation Enabling Authority

This Ordinance is adopted pursuant to The Michigan Zoning Enabling Act, Act 110, Public Acts of 2006, as amended, governing the unincorporated portions of the Township of Almena, Van Buren County, Michigan; to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings and other structures; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit the density of population; and for said purposes to divide the Township into districts and establish the boundaries thereof; to provide for changes in the regulations, restrictions and boundaries of such districts; to define certain terms used herein; to provide for enforcement; to establish a Board of Appeals; and to impose penalties for the violation of this Ordinance.

Section 1.04 - Scope and Applicability

After the date of enactment of this Ordinance, 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.

**ARTICLE II
CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

Section 2.01 - Construction of Language

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

1. The particular shall control the general.
2. In case of any differences of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
4. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
7. The word "person" includes an individual, a corporation, a partnership, association, or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," and "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
9. Terms not herein defined shall have the meaning customarily assigned to them.

Section 2.02 - Definitions

Accessory Use or Accessory - A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related.

When "accessory" is used in this text, it shall have the same meaning as accessory use.

An accessory use includes, but is not limited to the following:

1. Non-compensated residential accommodations for caretakers and guests occupying the accessory use for less than 30 consecutive days.
2. Swimming pools for the use of the occupants of a residence or their guests.
3. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
4. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
5. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
6. Accessory off-street parking spaces open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
7. Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
8. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
9. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

Access Management - The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting road system.

Access Management Plan - The Township Corridor Access Management Plan is published in two separate reports, one for M-40 and another for M-43. The Corridor Plan illustrates recommended location of access points and service drives along the corridor.

Access, Reasonable - The minimum number of access connections, direct or indirect, necessary to provide safe access to and from a public road, as consistent with the purpose and intent of this Ordinance and any other applicable plans and policies of Almena Township, with Act 200 of 1969, or with other applicable law of the State of Michigan. Reasonable access does not necessarily mean direct access.

Accessory Use Guest House or Accommodations - A free standing or other accessory use structure designed for or that may be used for overnight sleeping accommodations, having a bathroom with at minimum, a water closet and sink but that may also contain bathing facilities but no kitchen or other food preparation facilities or equipment. Pursuant to the Michigan One and Two Family Residential Construction Code, a guest house is not a dwelling unit due to the absence of a kitchen and food preparation facilities.

Adult Foster Care Family Home - A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks of which the family home licensee shall be a member of the household and occupant of the residence, pursuant to the Adult Foster Care Licensing Act, P.A. 218 of 1979, as amended. Such licensed facilities are expressly permitted in any district where residential use is permitted as expressly permitted by the Michigan Zoning Enabling Act, as amended.

Adult Foster Care Facility - A licensed facility designed to provide foster care for more than six (6) adults, pursuant to the Adult Foster Care Licensing Act, P.A. 218 of 1979, as amended. The locations of such licensed facilities are regulated by the terms of this Ordinance.

Adult Foster Care Large Group Home – An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults who shall be provided foster care. The licensee is not required to be a resident of the home. Local zoning approval is required prior to issuance of a license.

Adult Foster Care Small Group Home – An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. The licensee is not required to be a resident of the household. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.

Adult Uses - The term shall include adult book stores, adult cabarets, adult motion picture theaters, massage establishments, and nude artist and photography studios. These terms shall have the following indicated meanings:

1. **Adult Book Store** - An establishment having as a substantial or significant portion of its' stock in trade, books, magazines, or other periodicals, videotapes, movies, or adult-related novelties which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
2. **Adult Cabaret** - An establishment including, but not limited to, a café, restaurant, or bar which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.
3. **Adult Motion Picture Theater** - An establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein.
4. **Massage Establishment** - Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops, beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. A *Massage* is defined as a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.
5. **Nude Artist and Photography Studio** - Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display "specified anatomical areas" as defined herein for artists and photographers for a fee or charge.
6. **Specified Anatomical Areas** - Specified anatomical areas are defined as less than completely and opaquely covered:
 - a. Human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

7. **Specified Sexual Activities** - Specified sexual activities are defined as:
- a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse or sodomy;
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Agriculture - All contiguous neighboring or associated land operated as a single unit on which farming is carried on directly by the owner or by his agent or by a tenant farm that meet the definition of agriculture as set forth by the Michigan Zoning Enabling Act, P. A. 110 of 2006, as amended, the Farmland and Open Space Preservation Act, P.A. 116 of 1974, as amended by P.A. 262 of 2000, including “substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains; feed crops and field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.”

Agriculture, Value-Added Activities - Value-added activities are specific commercial and business land uses, other than for the sale of products grown on the operating farm property, when approved as a Special Use pursuant to Article XXIII intended to help preserve the long-term viability and profitability of agricultural operations within the Township.

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

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

Ambient - means the sound pressure level exceeded 90% of the time or L₉₀.

Anemometer 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 which is an accessory land use to a UTILITY GRID WIND ENERGY SYSTEM.

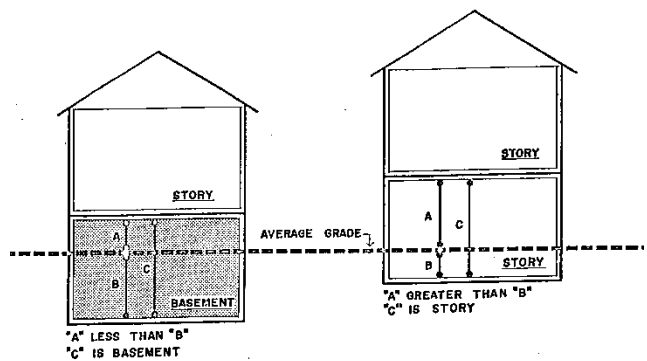
Animal Feed Lot - A place where cattle or other animals are kept which is used solely for the purpose of fattening livestock or preparing them for slaughter when such operation is compliant with Generally Accepted Agricultural Management Practices (GAAMPS) as established by the Michigan Department of Agriculture.

Animal Husbandry - A branch of agriculture for the raising or nurturing and management of animals, including breeding, pasturing, ranching, and sales of animals, but shall not include a Livestock Production Facility.

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

Auto Repair Station - A place where the following services may be carried out: general repair; engine rebuilding; rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; and/or overall painting and undercoating of automobiles with or without the sale of engine fuels.

Basement - That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade level to the basement floor is greater than the vertical distance from the grade level to the basement ceiling and when more than 50% of the cubic content is below the grade of the ground elevation. The basement shall not be counted as a story.



Basement, Walkout - A basement where at least one (1) wall is below the finished grade and where at least 50% of at least the one (1) wall is above finished grade and where such wall provides barrier free access to the exterior of the structure.

Bed and Breakfast Operation - Overnight lodging with morning breakfast provided for compensation in a principal use residential structure by not more than eight (8) transient persons per establishment at one time as a home occupation.

Billboard - A billboard is a structure located on a site for the purpose of displaying off-premises signage, often providing the signage space on a short-term rental basis, in excess of 100 square feet. **Revised 5-27-11**

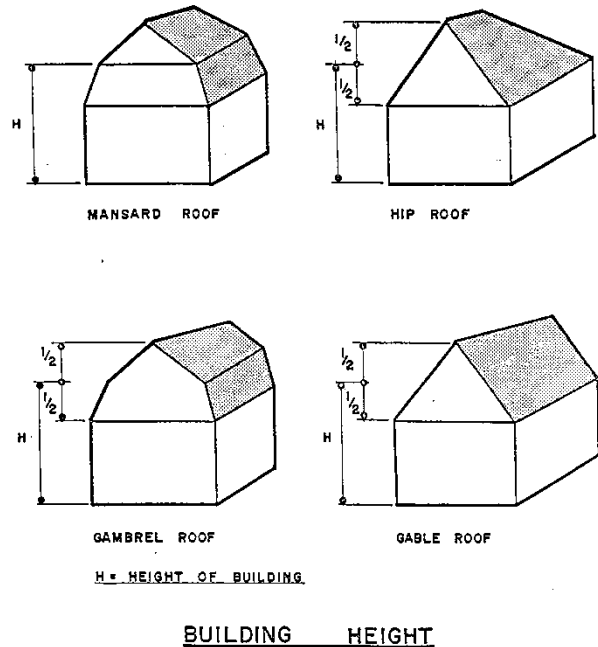
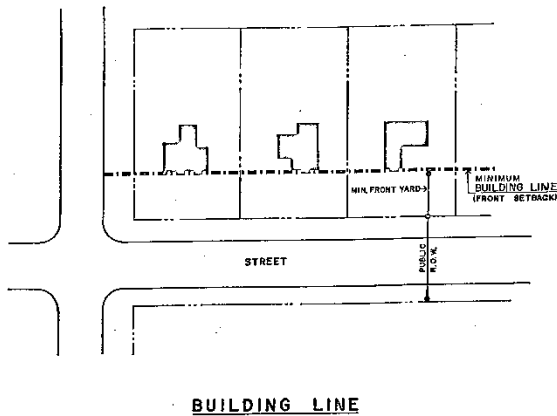
Block - The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, un-subdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development, or Township boundary lines of Van Buren County.

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

Building Height - The vertical distance measured from the established grade of the surrounding land to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs (See Article XVII, Section 17.12 for accessory use height regulations)

Building Inspector - For the terms of this ordinance, the Building Inspector is the person responsible for the administration of the Township building and construction codes and may also be designated by the Township Board administrative responsibilities set forth in this Ordinance.

Building Line - A line formed by the face of the building. For the purposes of this Ordinance, a minimum building line is the same as a front setback line.



Campground - See Recreational Vehicle Park.

Child Day Care Center – A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following: (i) a Sunday school, a vacation bible school or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than nine (9) hours per day for a period not to exceed four (4) weeks during a 12-month period; (ii) a facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services.

Club - An organization of persons for special purposes including those for sports, arts, sciences, literature, politics, or the like but not operated for profit.

Cluster Development - A form of residential development where the total number of residential dwelling units may, with approval of the Planning Commission is constructed on a minimum of 50% of the total developable land area (or less), provided that a minimum of 50% or more, of the total developable land area remains in open space protected from development through a permanent easement or other form of dedication acceptable to the Township Board.

Common Areas, Uses and Services - Land areas including other physical improvements and facilities and utilities, the use, enjoyment, and maintenance of which are intended to be shared by the owners and occupants of individual building units in a subdivision or a planned development.

Common Elements/Areas, General - “General Common Elements” means the land area other than the limited common areas of the site condominium development that are held in common by all co-owners and used for parks, streets, open space, or other common activities.

Common Elements/Areas, Limited - “Limited Common Elements” means a portion of the general common elements reserved in the master deed for the exclusive use of less than all of the co-owners and used for landscaping, vehicle parking areas, or driveways.

Common Open Space - A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, P.A. 59 of 1978, as amended), or an area of water, or a combination of land and water within an area for Planned Unit Development and designed and intended for the use and enjoyment of residents or occupants of the Planned Unit Development. Common open space may contain such contemporary structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the Planned Unit Development, but shall not include areas reserved for the exclusive use or benefit of any individual tenant or owner; dedicated streets or other public right-of-way; vehicular drives, parking areas, loading, and storage areas; and areas reserved for non-residential related uses.

Communication Tower - A radio, telephone, cellular telephone or television relay structure or skeleton frame work, or monopole attached directly to the ground or other structure utilized for the transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals. Included in this definition are accessory structures and/or enclosures.

Not included in this definition are citizen band radio facilities, short wave facilities, ham and amateur radio facilities, television reception antenna, satellite dishes, and government facilities which are subject to state and federal law or regulations that preempt municipal regulatory authority.

A communication tower shall not be included under the definition of essential services.

Communication Antenna, Attached - Any wireless communication facility affixed to an existing structure, such as a building tower, water tank, utility pole, or other feature utilized to receive and transmit federally or state licensed communication services via duly licensed segments of the radio frequency spectrum. This definition shall not include support structures.

Communication Tower, Co-Location on - The activity of placing more than one (1) Attached Communication Antenna on a Communication Tower or other structure.

Communication Tower, Height - Means the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Communication Tower and Communication Antenna, Pre-Existing - Any tower that already exists as of the effective date of this Ordinance or has been approved for construction as of the effective date of this Ordinance but has yet to be built.

Concentrated Animal Feeding Operation - A general animal feeding operation with associated manure storage facilities where farm animals as defined in the Right to Farm Act are confined with a capacity for 50 or more animal units as defined in the most recent publication of "Generally Accepted Agricultural and Management Practices for Site Selection and Oder Control for New and Expanding Livestock Production Facilities," as adopted by the Michigan Agricultural Commission. (See: Livestock Production Facility).

Condominium - The ownership of a land dwelling, office, commercial, or an industrial unit, including the space enclosed by the description thereof, as contained in the Master Deed, together with ownership of an interest in the common elements, as contained in the Master Deed.

Condominium Act - The Condominium Act, Act 59 of Michigan Public Acts of 1978, as amended.

Condominium Building or Structure - A building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g. in a residential development the condominium structure would refer to the house and any attached garage. A "Condominium Structure" can also be referred to as a "Building Envelope," that being the exterior walls, roof, etc.

Condominium, Consolidating Master Deed - The final amended master deed for a contractible condominium project, an 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.

Condominium, Contractible Condominium - A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

Condominium, Conversion Condominium - A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

Condominium, Convertible Area - A unit or a 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 provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

Condominium Documents - The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the Master Deed or bylaws which effect the rights and obligations of a co-owner of the condominium.

Condominium, Expandable Condominium - 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, Front Yard Setback - The distance between the front lot line and the condominium dwelling or principal use structure, if not a dwelling.

Condominium "Lot" - shall mean the same as "Home-site" and "Condominium Unit."

Condominium Master Deed - The condominium document recording the condominium project as approved by the Township Board 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.

Condominium, Mobile Home Condominium Project - A condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

Condominium Project or Site Condominium Subdivision Project - A condominium project developed under Public Act 59 of 1978, as amended, consisting of more than one (1) condominium unit which is not subject to the provisions of the Land Division Act, P.A. 87 of 1997, as amended.

Condominium Rear Yard Setback - The distance between the rear yard lot line and the condominium dwelling or principal use structure, if not a dwelling.

Condominium Side Yard Setback - The distance between the side yard lot line and the condominium dwelling or principal use structure, if not a dwelling.

Condominium Subdivision - shall be equivalent to the term "subdivision" as used in this Zoning Ordinance and the Land Division or Subdivision Control Ordinance.

Condominium Subdivision Plan - The site, survey, and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries, and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common elements.

Condominium Unit - That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, also at times referred to as a condominium lot.

Conservation Development - See Cluster Development.

Contiguous Land - A legally defined parcel of land as recorded with the Register of Deeds where a property boundary line abuts another separate legally defined parcel of land also recorded with the Register of Deeds and where the two (2) parcels of land in combination are treated as one (1) parcel for compliance with specific terms of this ordinance. Contiguous land, under the terms of this ordinance, may or may not be required to be held in similar ownership for compliance with certain requirements of this ordinance.

Convalescent or Nursing Home - A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and medical care, and regulated by a license from the State of Michigan.

dB(A) - the sound pressure level in decibels. It refers to the "A" weighted scale defined by ANSI (the American National Standards Institute). 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.

Density, Individual Parcel or Planned Unit Development - The relationship of the total number of dwelling units proposed to be developed compared to the amount of developable acreage of the parcel to be developed; expressed as dwelling units per acre (See: Article XV - PUD - Planned Unit Development, Section 15.07.B).

Developable Land - The portion of a parcel of land that is legally permitted to be developed, either by right or through a permit or other permission granted by any agency having jurisdiction over the development upon the parcel of property.

Development - The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use. (See: zoning lot and use, new or change of).

District - A portion of the unincorporated area of the Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

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

Dwelling, Multiple-Family - A building containing three (3) or more dwelling units designed for residential use.

Dwelling, Single-Family - A building containing not more than one (1) dwelling unit designed for residential use.

Dwelling, Two-Family - A building containing not more than two (2) separate dwelling units designed for residential use.

Dwelling Unit - A building or a mobile home or portion thereof connected to an approved sanitary wastewater collection and disposal system and having cooking, sanitary, bathing, dining and sleeping facilities, intended for occupancy by one (1) family for residential purposes, either on a permanent or transient basis. A mobile home can be classified as a dwelling or dwelling unit only after meeting the standards of a mobile home as defined herein (See: mobile home).

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

Essential Services - The erection, construction, alteration, or maintenance by public utilities or governmental departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, wastewater collection and disposal systems, communication (including cable tv), including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm, traffic signals, and hydrants in connection therewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or governmental departments for the general public health, safety or welfare. Cellular communication towers are not considered essential services and are regulated under other provisions of this Ordinance.

Excavation - Any breaking of ground, except common household gardening and ground care, and agricultural pursuits, if in compliance with Generally Accepted Agricultural Management Practices (GAAMPS).

Family - An individual or a group of two (2) or more persons related by blood, marriage or adoption, together with foster children and care takers of the principal occupants, with not more than one (1) additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or a collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit.

This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature for a limited anticipated period such as a school term or terms or other similar determinable period.

Family Child Day Care Center – A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Farm - The conduct of any agricultural activity or the raising of crops and livestock as a source of income that is compliant with terms of this ordinance or as a nonconforming use provided such farming activities are compliant with Generally Accepted Agricultural Management Practices established by the Michigan Department of Agriculture.

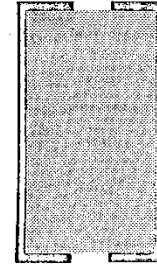
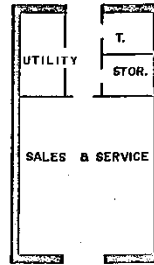
Farm, (Specialty) - A farm conducting commercial farming operations meeting the definition of agriculture as set forth in this ordinance typically smaller in size where such agricultural uses typically generate farm income greater than the minimum income for classification as an active farm pursuant to the requirements of the Farmland and Open Space Preservation Act, P.A. 262 of 2000, as amended, and program requirements promulgated thereto. Examples of a specialty farm include but are not limited to, growing of herbs, flowers, seeds, landscape plants, Christmas trees, fish farms, fruits, vegetables, etc.

Farm Stand (Stand for Retail Sale of Fruits and Vegetables)

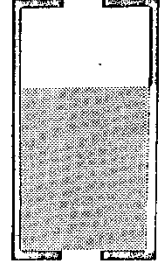
see: Stand for Retail Sale of Fruits and Vegetables.

Fence - A permanent partition, structure or gate erected as a dividing marker, barrier or enclosure, and not a part of a principal building or structure or other accessory structure. An ornamental fence is one that is less than three (3) feet in height, and is normally used in setting off planting areas and gardens.

Floor Area, Usable (For the purpose of calculating the number of parking spaces required) - That area used for or intended 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, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.



TOTAL FLOOR AREA



USABLE FLOOR AREA
(FOR PURPOSES OF COMPUTING PARKING)

FLOOR AREA

Foster Family Group Home – A private residence that houses five (5) or six (6) foster children, up to age 19, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks unattended by legal parent or guardian. Under Public Act 116 of 1973, a Foster Family Group Home requires local zoning approval before being licensed by the Department of Consumer and Industry Services.

Foster Family Home – A private residence that houses four (4) or fewer foster children, up to age 19, who are not related to an adult member of the household by blood marriage or adoption, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks unattended by legal parent or guardian. Under Public Act 116 of 1973, a Foster Family Home does not require local zoning approval before being licensed by the Department of Consumer and Industry Services.

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

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

Gasoline Service (Fueling) Station - A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

Generally Accepted Agricultural Management Practices (GAAMPS) - The specific standards approved by the Michigan Agriculture Commission addressing the management and operation of agricultural farming operations administered by the Michigan Department of Agriculture.

Government Rectangle Survey System - The method of describing land established by the Federal Land Ordinance Act of 1785, now known as the Public Land Survey System, which established townships as land descriptors for the purposes of recording ownership of land with the County Register of Deeds. Land descriptions under this system contain legal descriptions using the language of section, half section, quarter section, or quarter quarter section and the like and are measured to the centerline of the section line. As such, all legal descriptions that include a section line have a 33 foot reservation along the section line for highway purposes.

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

Group Child Day Care Home – A private home in which more than six (6) but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Guest House - See: Accessory Use Guest House or Accommodations

Home Occupation - Major - An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a permitted, accessory or appurtenant structure of a residential dwelling unit which does not alter the exterior of the property or adversely affect the general residential use or character of the neighborhood. Major Home Occupations are evidenced by an increased amount of customer traffic, delivery or other vendor traffic, or other commercial activity which is not normally intended as a permitted use of the property, but which by their low level of activity or use do not adversely affect others.

Example businesses includes the sales of any goods or the provision of services and includes, but not limited, to sales of health products and vitamins, cookware, novelty items (typically made by the resident of the home occupation), barber and beauty shops, massage and physical therapy centers, doctors and dentist offices, offices of lawyers and similar professions, and other similar business. These major home occupations, where allowed as special uses shall be approved by the Township Board at which time appropriate conditions may be placed on the business operation to assure compatibility of the business operations with neighborhood residential needs.

Home Occupation - Minor - An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Hotel - A building or part of a building in which the dwelling units or rooming units are used primarily for overnight transient occupancy, and in which one (1) or more of the following services are offered: maid service, furnishing of linen, telephone, food and other similar services. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

Junk Yard including Recycling Center - All buildings and surrounding open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to, auto parts, scrap iron and other metals, paper, rags, rubber tires and bottles.

Kennel - Any lot or premises on which dogs are either permanently or temporarily boarded for remuneration or rescue, or where dogs are bred and sold. Additionally, any facility falling under the definition of “kennel” in the Michigan Pet Shops, Dog Pounds, and Animal Shelters Act (PA 287 of 1969) or any facility licensed under that act shall be considered a kennel for purposes of this Ordinance.

Land Division - The act of creating a lot or parcel of land defined by a metes and bounds description pursuant to the provisions of the Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) or the act of creating a condominium plat pursuant to the provisions of the Condominium Act, P.A., 59 of 1978, as amended, for the purpose of recording same with the Register of Deeds of Van Buren County. (See: Land Division Act and Condominium Act.).

Land Division Act - The Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) and any ordinance adopted by the Township Board in furtherance of Township duties required of said act.

Lease Unit Boundary - the boundary around a property leased for purposes of a Wind Energy System, including adjacent parcels to the parcel on which the Wind Energy System tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road right-of-ways.

Loading Space - An off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials. A loading space shall have a minimum area of 845 square feet, a minimum width of 13 feet, a minimum depth of 65 feet and a vertical clearance of at least 14.5 feet.

Livestock Production Facility - A general animal feeding operation with associated manure storage facilities where farm animals as defined in the Right to Farm Act are confined, fed, and raised for commercial purposes as the principal land use. Such use shall comply with the most recent publication of "Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Production Facilities," as adopted by the Michigan Agricultural Commission.

Lot - A parcel of land or contiguous parcels of land under one (1) ownership legally described and recorded with the County Registrar of Deeds having fixed boundaries of sufficient size and configuration to meet the site development requirements of this Ordinance and having frontage on an improved public street or an approved private street. The word "lot" shall include unit, plot or parcel. A lot may also mean a portion of a condominium project, referenced to as a "unit" pursuant to the regulations of Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.

Lot, Corner - A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than 150 feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight line extended, form an interior angle of less than 135 degrees.

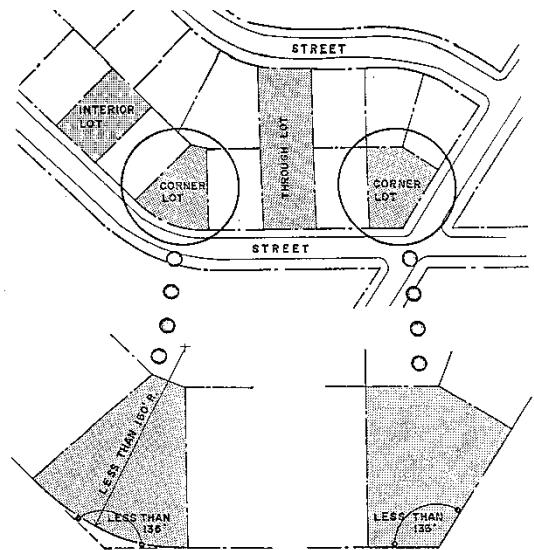
Lot, Interior - Any lot other than a corner lot.

Lot, Through - Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Lot, Zoning - See: Zoning Lot.

Lot Area - The total horizontal area within the lot lines of the lot expressed in total square feet or acres.

Lot Coverage - The ratio or percent of the lot occupied by buildings including accessory buildings.



INTERIOR, THROUGH & CORNER LOTS

Lot Depth - The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot Lines - The lines bounding a lot as defined herein:

Front Lot Line - In the case of an interior lot, the front lot line is that line separating said lot from the front property line abutting the public right-of-way. In the case of a through lot, the front lot line is that line separating said lot from either property line abutting the public right-of-way. In the case of a corner lot, the front line is that line as designated on the building plans filed for approval with the Building Inspector.

Rear Lot Line - That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long lying farthest from the front lot line and wholly within the lot.

Side Lot Line - Any lot line other than the front lot line 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 line from another lot or lots is an interior side lot line.

Waterfront Lot Line - See: Setback, waterfront.

Lot of Record - A parcel of land, the dimensions of which are shown on a document, plat or survey on file with the County Register of Deeds.

Lot Width - The horizontal straight line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines.

Main Building (Principal Use Structure or Building) - A building in which is conducted the principal use of the lot upon which it is situated.

Major Thoroughfare - An arterial street which is intended to serve as a large volume traffic-way for both the immediate county area and the region beyond, and is designated as a major road, freeway, expressway, or equivalent term in the Master Land Use Plan adopted by the Planning Commission.

Marihuana Establishment – A marihuana grower, marihuana microbusiness, marihuana processor, marihuana retailer, marihuana safety compliance facility, marihuana secure transporter, or any other type of marihuana-related businesses licensed by the Michigan Department of Licensing and Regulatory Affairs under the Medical Marihuana Facilities Licensing Act or the Michigan Regulation and Taxation of Marihuana Act.

Marihuana Grower – A marihuana establishment that cultivates marihuana and sells or otherwise transfers marihuana to marihuana establishments.

Marihuana Microbusiness – A marihuana establishment that cultivates no more than 150 marihuana plants; processes and packages marihuana; and sells or otherwise transfers marihuana to individuals who are 21 years of age or older or to marihuana safety compliance facilities, but not to other marihuana establishments.

Marihuana Processor – A marihuana establishment that obtains marihuana from marihuana establishments; processes and packages marihuana; and sells or otherwise transfers marihuana to marihuana establishments.

Marihuana Retailer – A marihuana establishment that sells or otherwise transfers marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Marihuana Safety Compliance Facility – A marihuana establishment that tests marihuana, including certification for potency and the presence of contaminants.

Marihuana Secure Transporter Facility – A marihuana establishment that obtains marihuana from marihuana establishments in order to transport marihuana to other marihuana establishments.

Master Plan - The Township Plan adopted pursuant to the Township Planning Act, P.A. 168 of 1959, as amended, and administered pursuant to the Michigan Planning Enabling Act, P.A. 33 of 2008, as amended, including graphic and written materials indicating the general location for streets, parks, schools, public buildings, and all physical development of the township, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

Mezzanine - An intermediate floor in any story occupying less than 30% of the possible floor area of such story.

MDOT - Michigan Department of Transportation.

Mobile Home - A structure, transportable in one (1) section, which is built on a chassis and designed to be used as a dwelling, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle. A mobile home can be classified as a dwelling or dwelling unit for the purposes of this Ordinance only after being manufactured pursuant to the requirements of the Michigan Mobile Home Commission bearing the seal showing evidence that such structure has been constructed and inspected pursuant these requirements and after meeting the standards of Article XVII - General Provisions, Section 17.23 and 17.24.

Mobile Home Park (Trailer Park) - A plot of land approved constructed and maintained for the lease or sale of sites for the location of mobile homes pursuant to the rules and regulations of the Michigan Mobile Home Parks Commission.

Modular, Pre-Manufactured or Double-Wide Home - A structure, transportable in two (2) or more sections, which are built on a chassis and designed to be used as a dwelling with a permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the structure. Any modular or double-wide dwelling structure intended to be located in the Township must meet all standards of the Michigan Construction Code as from time to time may be amended. The minimum width of the modular or double-wide must not be less than 20 feet for the entire building and have a minimum area of 1,064 square feet. Further the roof is to have a minimum 4/12 pitch, that being a four (4) inch rise for each 12 inches of run. A modular home meeting the above requirements and standards of Article XVII - General Provisions, Section 17.23 and 17.24 shall be a dwelling unit permissible in all zoning districts where single-family detached structures are permitted uses.

Motel - A series of attached, semidetached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation.

Non-Conforming Building - A building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of the Ordinance of the district in which it is located.

Non-Conforming Lot - A lot with area or dimensions lawfully existing at the effective date of this Ordinance or amendments thereto with less than the minimum lot requirements for the Zoning district in which it is located. This includes, but is not limited to minimum area, dimension or access requirements.

Non-Conforming Use - A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nuisance Factor - An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially continuing or repeating invasion of any physical characteristics or activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise or congregation of people, particularly at night, (n) pedestrian traffic, (o) invasion of non-abutting street frontage by traffic.

Nursery - A space, building or structure, or combination thereof, for the propagation and/or storage of live trees, shrubs or plants offered for sale including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

Off-Street Parking - A facility providing vehicular parking spaces on a hard, dust free surface, along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

On-Site Wind Energy System - a land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

Open Front Store - A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "Open Front Store" shall not include automobile repair stations or automobile service stations. Examples of such stores include but are not limited to fruit & vegetable stands, garden supply centers, building supply centers, etc.

Open Space - A portion of land for which no development is allowed by an easement, deed restriction, or other legal means used to meet specific requirements of this ordinance, for example the undeveloped land counted towards the open space requirement of a Conservation Development as prescribed in this ordinance.

Open Space Conservation Development - See Cluster Development.

Open Space Uses - Any principal or accessory use of a lot or parcel not involving the use of buildings or structures which are required to meet the Township Construction Code.

Overlay Zoning District - An overlay zone is a separate zoning district that is placed over an existing district that adds new regulations to those of the underlying zoning district.

Parking Space - An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles. (See: Article XVIII - Off Street Parking and Loading Section 18.10 for specifications.)

Planned Unit Development - A parcel or tract of land initially under unified ownership or control, and which is or intended to be the site of two (2) or more principal use buildings that is planned and constructed as a unified development where specific regulations of a given zoning district are modified through the approval of a site plan.

Planned Unit Development - Traditional - A Planned Unit Development where uses other than those allowed by the terms of the underlying zoning district regulation is permitted by decision of the Planning Commission.

Planned Unit Development - Cluster Development - A Planned Unit Development designed to comply with the requirements of P.A. 177 of 2000 that requires qualified Michigan Townships to offer an "open space preservation" pattern of residential land development. (See: "Cluster Development")

Plat - The drawing required and prepared in accordance with the specifications of either the Land Division Act or Condominium Act signed by a Michigan Registered Surveyor or Licensed Engineer which is approved by the Township Board to be filed with the Register of Deeds of Van Buren County.

Practical Difficulty - The principals used by the Zoning Board of Appeals to grant a dimensional variance, when an applicant demonstrates:

1. Strict compliance with area, setback, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome,
2. The requested variance would do substantial justice to the applicant as well as to other property owners in the district, and the lesser relaxation would not give substantial relief and be more consistent with justice to others,
3. The plight of the owner is due to unique circumstances of the property, and
4. The problem was not self-created.

Principal Use - The main use to which the premises are devoted and the principal purpose for which the premises exist.

Private Road - See Road, Private.

Public Utility - A person, firm, or corporation, municipal (including townships) or county department, board or commission duly authorized to furnish and furnishing under Federal, State or Township regulations to the public: natural gas, steam, electricity, sewage disposal, communications (including cable TV), telegraph, transportation or water.

Reasonable Access - See Access, Reasonable.

Recreation Vehicle - A vehicle primarily designed and used as temporary living quarters for recreational camping or traveling or a vehicle mounted on or drawn by another vehicle.

Recreation Vehicle Park (RV Park) - A family recreation oriented facility for the overnight or short-term parking of travel trailers, recreation vehicles or tents. May also be known as a campground.

Recycling Facility - See Junk Yard.

Road, Private - A non-public road approved by the Township serving at least two (2) separately owned lots or parcels which is operated and maintained by the owners or occupants of the lots it serves on behalf of the public using the road. The road shall meet the specifications of Article XVII - General Provisions, Section 17.28, Article XVI – Condominium Approval

Requirements Section 16.13, and Article XV – PUD Planned Unit Development Overlay District Section 15.07.F of this Ordinance, constructed to County Road Commission standards and be subject to a maintenance agreement approved by the Township Board.

Road Frontage –The distance along which a property line of a lot adjoins a public or private road or street.

Road or Street - A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

Room - For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom that is equal to at least 80 square feet in area for each room. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing one (1), two (2), or three (3) bedroom units and including a “den,” “library” or other extra room shall count such extra room as a bedroom for the purpose of computing density.

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.

Self-Storage Facility - A building or group of buildings divided into separate compartments leased to individuals and used for the temporary storage of household and personal property.

Setback - The distance required to obtain minimum front, side or rear yard space provisions of this Ordinance.

Setback, Front, Side, and Rear Yard - Distance measured from the respective front, side and rear yard boundary lines associated with the building lot to the respective front, side and rear of the structure/building envelope.

Setback Line, Building - The distance between a property line of a lot or parcel and the foundations along any point on the exterior surface of the facing side of buildings and structures.

Setback, Road - The distance between the right-of-way line and the nearest point of the facing wall or any point on the facing side of the principal structure or the facing wall or any point on the facing side of accessory structures.

Setback, Waterfront or Water Property Yard - The distance between the shoreline and the nearest point of the facing wall of the principal structure or the facing wall or edge of accessory structures.

Shadow Flicker - alternating changes in light intensity caused by the moving blade(s) of a Wind Energy System casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

Shoreland - The land, water and land next to the water which is in close proximity to the shoreline of any water body.

Shoreline - That area of the shore-lands where land and water meet subject to the provisions of law recognizing changes of water elevation.

Sign - Any illuminated or non-illuminated identification, description, illustration, device, placard, or similar fixture which is affixed to a building, structure, or land using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services. (See: Article XIX - Sign Regulations for sign regulations.)

Sign, Accessory (On Premises) - A sign which is accessory to the principal use of the premises and is designed to direct attention to a product, place, activity, person, institution or business located upon the property on which the sign is located.

Sign, Accessory (Off Premises) - A sign which is not related to the principal use of the premises and is designed to direct attention to a product, place, activity, person, institution or business that is not located upon the property on which the sign is located.

Sign, Advertising Device - Banners affixed on poles, wires, or ropes and streamers, wind operated devices, flashing lights, and other similar devices.

Sign Area - The total area of the space to be used for advertising purposes, including the spaces between open-type letters and figures, including the background structure or other decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign. For Double Faced Signs, the calculation of sign area shall only be taken on one side of the sign and not on both sides.

Sign, Double Faced - A sign having two (2) sides each exposed for public viewing. If placed back to back such that only one side is visible when passing on a street or public way and equal in size and shape, such signs shall be counted as one sign for the purposes of this ordinance.

Sign, Freestanding or Ground - Any sign erected, constructed or maintained for the purpose of displaying outdoor advertising by means of posters, pictures, pictorial and reading matter when such sign is supported by uprights, posts, or braces placed upon or affixed in the ground and not attached to any part of a building.

Sign, Marquee - Any sign affixed to a marquee over the entrance to a building and supported from the building.

Sign, Portable/Temporary – A sign not constructed or intended for permanent placement at a location or for long-term use. Examples of such signs include banners, flags, wraps, vehicle-mounted signs, and other formats announcing coming attractions, new construction, grand openings, upcoming events, or other events that occur for a limited period of time.

Sign, Roof - Any sign erected, constructed, or maintained upon the roof of any building.

Sign, Wall - Any sign or poster or any rigid surface or plane affixed to and parallel to the front, side or rear wall of any building. Paper signs may not be pasted to a building wall.

Similar Use - A use not specifically listed as a permitted or special use in a specific zoning district, that upon application, the Township Planning Commission may declare such use to be allowable either as a permitted or special use within the district due to the use being 1) similar in character, 2) having similar density of development, and 3) having a similar intensity of use to the allowable uses within the specific zoning district.

Site Condominium Unit - A condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

Site Plan - A plot of survey of a lot or parcel and the plan for all of the developmental proposals to develop or change the existing character of the lot or parcel.

Sound Pressure - an 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).

Space, Open - See Open Space.

Special Land Use, Temporary - As used in this ordinance, the term “temporary” when used refers to a specific time period for which the Special Land Use remains legally valid. The Planning Commission shall determine the time period and recommend that the time period and termination date be included as a condition of the Special Land Use Permits approved by the Township Board.

Special Use or Special Land Use - Uses listed in each zoning district that due to their nature require special consideration and approval by the Planning Commission. A special use is permitted only after review and approval of an application by the Planning Commission after a public hearing. Such review being necessary because the provisions of this Ordinance covering conditions precedent or subsequent, are not precise enough to all applications without interpretation and such review and exception is provided for by this Ordinance. (See: Article XXIII - Special Uses)

Special Use or Special Land Use Permits - A permit issued by the Township Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure which may or may not be specifically listed in this Ordinance and that possesses a unique characteristic found to be not injurious to the health, safety, convenience and general welfare of the Township's inhabitants, but one which is directly needed to serve the inhabitants in the area in which they live or work. (See: Article XXIII - Special Uses)

Stand for Retail Sale of Fruits and Vegetables (Farm Stand) - A portion of a Zoning lot containing a building or other structure meeting the following criteria:

1. A temporary, (seasonal) facility as an accessory use to an agricultural use only.
2. No permanent structure shall be erected in connection with such sales and all temporary structures shall be removed when such products have been disposed of.
3. Adequate space shall be provided on-site and off the right-of-way for the storage of vehicles for employees and visitors based on the size and anticipated use of the facility.
4. All required yard setbacks shall be observed.

Story - That part of a building, except a mezzanine as defined herein, included between the surface of one (1) floor and the surface of the next floor, or if there is no floor above, than the ceiling next above. A story thus defined shall not be counted as a story when more than 50%, by cubic content, is below the established grade.

Story, Half - An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches (7'-6"). For the purposes of this Ordinance, the useable floor area is only that area having at least four (4) feet clear height between floor and ceiling.

Street or Road - A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

Structure - Anything constructed or erected, the use of which requires location on the ground or the attachment to something having location on the ground.

Subdivision Plats - See Land Division Act and Plat.

Temporary Use or Building - The temporary use of land or the use of a building or other structure approved by the Planning Commission as part of an approved site plan or by approval of the Zoning Administrator are allowed to exist during periods of construction of the main building or the temporary use of any building or structure for special events which are typically scheduled for a period not to exceed 14 days in duration.

Unit, Condominium - A lot or specific unit for occupancy described in a condominium master deed to be conveyed under single ownership and having an individual property tax code identification number.

Unnecessary Hardship - Shall mean non self-created circumstances in which 1) the permitted zoning district uses are so limiting as to result in the impossibility of developing a lot or parcel for any such permitted use purpose because of unusual or unique characteristics of the lot or parcel in relation to other more typical lots or parcels in the same zoning district or 2) mean that a permitted principal or accessory use because of its specific limitations by normal definition is in need of modification thorough combining permitted principal or accessory uses when only one such use is permitted on a lot or parcel.

Use - The principal purpose for which land the main building or premises of a structure or building thereon is designed, arranged, intended, or for which is occupied, maintained, rented or leased for a permitted and approved use or activity.

Use, Accessory - A use or activity normally and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or buildings, including all structures detached from the principal structure above and below ground, such as garages, sheds, barns, television satellite dishes, wells, septic systems, and designed surface structures and areas, or any use determined by the Zoning Board of Appeals to be a normal and incidental use to a principal use.

Use, New or Change of - For the terms of this Ordinance, the term new use, or change of use, means the abandonment of the current use of the land and/or building and reuse of the land and building for a different purpose such as, abandonment of a dwelling unit for residential use to house a commercial business.

Utility Grid Wind Energy System - a land use for generating power by use of wind at multiple tower locations in a community and includes accessory uses such as but not limited to a Supervisory Control and Data Acquisition (SCADA) tower or an electric substation. A Utility Grid Wind Energy System is designed and built to provide electricity to the electric utility grid.

Wall, Screening or Obscuring - A structure or vegetative planting of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

Wind Energy Conversion System (WECS) - Shall mean a combination of:

1. A surface area, either variable or fixed, for utilizing the wind for electrical powers,
2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device,
3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
4. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Wind Energy Conversion System - Interconnected - Is a WECS, which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.

Wind Energy Conversion System - Purposes - The intent of a WECS is to provide electricity for personal uses or to sell or provide electricity to others. The tower may or may not be owned by the owner of the property upon which the tower is placed.

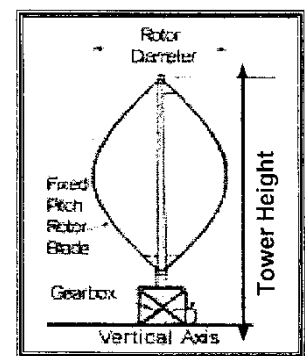
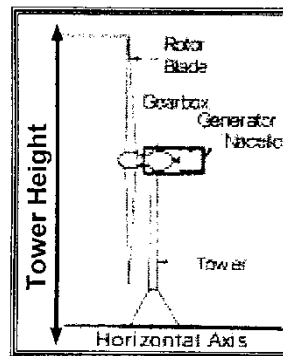
Wind Energy Conversion System - Survival Wind Speed - The maximum wind speed, as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

Wind Energy Conversion System - Testing Facility - A structure and equipment used to determine the potential for the placement of a WECS.

Wind Energy Conversion System - Tower Height Determination

Horizontal Axis Wind Turbine Rotors - The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades.

Vertical Axis Wind Turbine - The distance between the ground and the highest point of the WECS.



Wind Energy Conversion - Wind Farm - A cluster (three (3) or more) of WECS towers placed upon land with the intent to sell or provide electricity to others. The towers may or may not be owned by the owner of the property upon which the towers are placed.

Wind Energy System - a land use for generating power by use of wind; utilizing 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. See also ONSITE WIND ENERGY SYSTEM and UTILITY GRID WIND ENERGY SYSTEM

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.

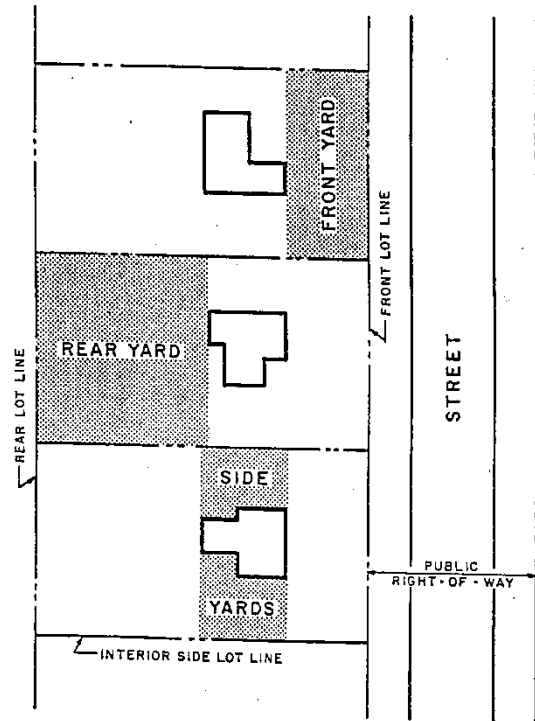
Yards - The open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein:

Front Yard - An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal use building or structure. A lot has two (2) front yards if a corner lot.

Front Yard - Water Property - See Setback, Waterfront

Rear Yard - An open space extending the full width of the lot, the depth, of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal use building or structure.

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



Zoning Administrator - The Township official appointed by the Township Board to administer and enforce the provisions of this Zoning Ordinance. (See: Building Inspector)

Zoning Compliance Permit - A permit for commencing construction issued by the Zoning Administrator in accordance with a plan, including an approved site plan, for construction that complies with all the provisions of this Zoning Ordinance.

Zoning District Map - The official map showing specific districts established by the Ordinance, as described in Article III, Section 3.01.

Zoning Exception - See: Special Use

Zoning Lot - A parcel, tract, or area of land accessible by means of a public street or road meeting the size and frontage requirements of the zoning district in which the lot is located. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one (1) or more lots of record.

Zoning Variance - The term "Variance" shall mean a modification of literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals when strict enforcement of the Zoning Ordinance would cause practical difficulties due to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are (a) not self-created, (b) practical difficulties, (c) unique circumstances, and (d) exceptional and unusual elements, are present which would preclude the same type of development permitted in the zoning district from being repeated, but, which with a variance, would permit compatible development similar to the uses and character of development permitted in a zoning district. The term Variance shall not mean to include granting variances for substantially larger buildings or additional uses other than those permitted in the respective zoning districts. (See: Practical Difficulty)

**ARTICLE III
ZONING DISTRICTS AND MAP**

Section 3.01 - Districts Established

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

ZONING DISTRICTS

AG	Agricultural
AGLD	Agricultural Low Density
AGMD	Agricultural Medium Density
WR	Waterfront Residential
AS	Almena Settlement
C	Commercial
I	Industrial

OVERLAY DISTRICTS

CR	Corridor Overlay
AP	Airport Overlay
PUD	Planned Unit Development

Section 3.02 - Zoning Map and District Boundaries

The districts, as established in Section 3.01 are bounded and defined as shown on the map entitled “Zoning District Map of Almena Township” adopted by the Township Board, and which with all notations, references and other information appearing thereon, is hereby declared to be part of this Ordinance and of the same force and effect as if the districts shown thereon were fully set forth in this Zoning Ordinance.

The “Official Zoning Map” shall be identified by the signature of the Township Supervisor attested to by the Township Clerk under the words: “This is to certify that this is the Official Zoning Map referred to in Article III, Section 3.02 of the Zoning Ordinance of Almena Township, Van Buren County, Michigan.”

Section 3.03 - Interpretation of District Boundaries

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

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.

- B. Boundaries indicated as approximately following platted or other recorded lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries.
- D. Boundaries indicated as following railroad or designed trails lines shall be construed to be the midway between the main tracks.
- E. Boundaries indicated as following shore lines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections a through e above shall be so constructed. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.
- G. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning District Map, or in other circumstances not covered by subsections a through e above, the Zoning Board of Appeals shall interpret the district boundaries.
- H. Insofar as some or all of the various districts may be indicated on the Zoning District Map by patterns which, for the sake of map clarity, do not cover public right-of-ways, it is intended that such district boundaries do extend to the center of the public right-of-way.

Section 3.04 - Zoning of Vacated Areas

Wherever any road street, alley or other public way, within the unincorporated area of the Township of Almena shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same Zone District as the property to which it attaches.

Section 3.05 - District Requirements

All buildings and uses in any District shall be subject to the provisions of Article XVII - General Provisions, Section 17.07.

**ARTICLE IV
AG - AGRICULTURAL DISTRICT**

Section 4.01 - Intent

The intent of this district is to implement “Township Land Use Policy” expressed in the Almena Township Master Plan specifically to protect productive and prime farmland “from encroachment of residential uses by promoting cluster development which is consolidated and isolated from productive agricultural areas. Rural features will also be protected through design standards and zoning criteria that prevent insufficient land splits and a land use pattern that unnecessarily consumes land. Splits will be permitted to offer some flexibility for farmers, but splits will be directed to isolated areas and less productive soils”.

This district is applicable to those areas of the Township which are designated on the Almena Township Master Plan Future Land Use Map for farmland protection and preservation through either self imposed development limitation action by the property owner; a Federal, State, County, or Township program; or through volunteer land owner dedication to an eligible not-for-profit land conservancy.

The AG Agricultural District is primarily composed of large tracks of productive and temporarily fallow farmland and ancillary open land areas and wooded lands. The regulations are intended to retain, insofar as is practicable and desirable, the agricultural use and open character of this land. It is also the purpose of this district to permit those uses customarily considered agricultural operations provided such agricultural uses are compliant with Michigan Department of Agriculture approved Generally Accepted Agricultural Management Practices (GAAMPS) and minimize the impact upon the natural resources of the Township.

Section 4.02 - Permitted Principal Uses

In an AG Agricultural District, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this Ordinance:

- A. Farms, farm operations, and agricultural activities that are subject to the State of Michigan Right to Farm Act and the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS). Farms that are compliant with the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS) are not subject to the ordinance, nor are activities and operation preempted by the GAAMPs and the Right to Farm Act.
- B. Single-family detached dwellings.
- C. Public and private stables and riding academies.
- D. Accessory buildings and uses customarily incidental to any of the above permitted uses.

- E. The disposal of garbage, sewage, rubbish, offal or rendering plants, or the slaughtering of animals are expressly prohibited except for the slaughtering of animals by residents for use by persons residing on the premises.
- F. Minor Home Occupations (See: Article XXI – Home Occupations).
- G. Outdoor Swimming Pools, Jacuzzis and Hot Tubs (See: Article XVII, Section 17.29)
- H. Outdoor Kennels for Dogs (See: Article XVII, Section 17.30)
- I. Essential public utility services except cell towers elsewhere regulated by the terms of this ordinance.
- J. Adult Foster Care Family Home (See: Article XVII, Section 17.34).
- K. Family Child Day Care Home (See: Article XVII, Section 17.34).
- L. Foster Family Home (See: Article XVII, Section 17.34).
- M. Foster Family Group Home (See: Article XVII, Section 17.34).

Section 4.03 – Special Uses

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission based on the standards of Article XXIII, Special Uses.

- A. Farm-related Businesses (See: Article XVII, Section 17.37): Agriculturally-oriented businesses on farm parcels that are accessory to, and have a direct an intrinsic relationship to the principal agricultural use of the subject property, unless determined to be preempted by the Right to Farm Act and the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS):
 - 1. Seasonal or year-round agricultural tourism activities, including but not limited to animal displays, mazes, hayrides, haunted barns, bonfires, trick-or-treat, and sleigh/wagon rides.
 - 2. Coffee shop or tea room.
 - 3. Temporary tent camping.
 - 4. Artisan craft sales.
 - 5. Production and sale of cider, wine, and beer.
 - 6. Venue for banquets and educational events.
- B. Freestanding towers associate with agricultural buildings shall be located no closer to property lines than one (1) times the height of the tower measured from the base of the tower to all points of each property line.

- C. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the Township, and after review and approval of the Planning Commission. The applicant shall demonstrate to the Planning Commission that the proposed building or expansion is necessary for the effective and efficient service of the Township.
- D. Accessory buildings and uses not customarily incidental to any of the above permitted uses but necessary for agricultural operations.
- E. Major Home Occupations (See: Article XXI - Home Occupations).
- F. Air plane landing strips, when approved by the Michigan Department of Transportation, Aeronautics Commission.
- G. Public and private recreation and conservation areas.
- H. Mobile Home as an Accessory Use for the Aged and Infirm (See; Article XVII, Section 17.25).
- I. Mineral Removal (See Article XX – Mineral Removal).
- J. Group Child Day Care Home (see: Article XVII, Section 17.34)
- K. Marihuana Grower (see: Article XVII, Section 17.37)
- L. Marihuana Processor (see: Article XVII, Section 17.37)
- M. Marihuana Retailer, provided, there is at least one other authorized marihuana establishment on the same parcel (see: Article XVII, Section 17.37)

Section 4.04 - Area and Bulk Requirements

See: Article XI - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

Section 4.05 - Other Provisions

- A. **Right to Farm:** It is the intent of this Zoning District to both govern and protect agricultural land, buildings, and structural uses in accordance with the provisions of the “Right to Farm Act,” Public Act 240 of 1987, as amended (MCL 286.472) when such operations are compliant with Generally Accepted Agricultural Management Practices as established by the Michigan Department of Agriculture. All legal nonconforming, agricultural uses included in Public Act 240 of 1987 (MCL 286.472) shall be governed by the provisions of this Zoning Ordinance to the extent that they are not in conflict with

the provisions of Public Act 240 of 1987 (MCL 286.472) in which case the provisions of Public Act 240 of 1987 (MCL 286.472) shall prevail.

- B. **Alternative Minimum Lot Size for the Division (Sale) of the Original Farm Homestead from the Farm:** Parcels of land in the AG district less than 10 acres in size may still split off a portion of the lot, provided the balance of the property is preserved in perpetuity. A portion of the property that satisfies the minimum lot size and frontage for the district, such as the original farm homestead (defined as the dwelling of the owner farm operator), may be divided from the farm operations upon approval of the Planning Commission provided the division (lot-split) is two (2) acres or more in size and meets the lot width/road frontage, lot coverage and yard and setback requirements, and provided that the remaining portion of the property shall be permanently preserved for agriculture or open space. The balance of the property shall be placed in a permanent easement, deed restriction, or similar instrument prohibiting development on this portion of the site.

As a condition of approval of the proposed land division, the Planning Commission shall require that the applicant record documents for each of the parcels being created, including the parent parcel, at the County Register of Deeds boldly noting the information listed below and submit copies of the registered documents to the Township. The documents may include the deed for the property, a quit-claim deed back to the property owner, or an easement on the property with the information / conditions provided below:

1. This section of the Ordinance and the date of approval of the Planning Commission and Township Board;
 2. The size of the original parent parcel as of the date of application; and
 3. The number and size of the parcels being created.
 4. These items must be shown on the deed submitted to the Township with the land division approval and reviewed for compliance with the requirements of this section prior to approval of the land division by the Township Supervisor.
- C. **Alternative Density for PUD Developments:** For PUD developments, the permitted density requirement in the AG district shall be increased to one (1) unit per two (2) acres.

AGLD - AGRICULTURAL LOW DENSITY DISTRICT

Section 5.01 - Intent

The intent of the Agricultural Low Density District is to provide an area in the Township where single-family homes and farming operations can be located. The purpose of this district is to implement “Township Land Use Policy” expressed in the Almena Township Master Plan specifically to permit low density residential development “permitted in cluster developments in the remaining areas of the Township under a sliding scale concept. Design standards and incentives will be provided to promote cluster designs that accommodate natural features and protect rural character. Smaller building sites will be required to prevent the unnecessary consumption of land. Standards will be provided that protect productive and prime agricultural lands.” (See Master Plan page 39).

This district includes mini-farms where the agricultural use of the land coincides with the use of the land for a single-family homes and related uses.

The regulations are intended to retain, insofar as is practicable and desirable, the agricultural and open character of this district. It is also the purpose of this district to permit those uses customarily considered agricultural operations provided such agricultural uses are compliant with Michigan Department of Agriculture approved Generally Accepted Agricultural Management Practices (GAAMPS) and minimizes the impact upon the natural resources of the Township.

Section 5.02 - Principal Uses Permitted

In the AGLD Agricultural Low Density District, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this Ordinance:

- A. Farms, farm operations, and agricultural activities on parcels not less than three (3) acres that are subject to the State of Michigan Right to Farm Act and the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS). Farms that are compliant with the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS) are not subject to this ordinance, nor are activities and operations preempted by the GAAMPS and the Right to Farm Act.
- B. Single-family detached dwellings.
- C. Planned Unit Development, either Traditional or Cluster Developments when approved pursuant to the provisions of Article XV - Planned Unit Development.
- D. Accessory buildings and uses, customarily incidental to any of the above permitted uses.
- E. Minor Home Occupations (See: Article XXI - Home Occupations).

- F. Outdoor Swimming Pools, Jacuzzis and Hot Tubs (See: Article XVII, Section 17.29).
- G. Outdoor Kennels for Dogs (see: Article XVII, Section 17.30).
- H. Essential public utility services except cell towers elsewhere regulated by the terms of this ordinance.
- I. Adult Foster Care Family Home (see: Article XVII, Section 17.34)
- J. Family Child Day Care Home (see: Article XVII, Section 17.34)
- K. Foster Family Home (see: Article XVII, Section 17.34)
- L. Foster Family Group Home (see: Article XVII, Section 17.34)

Section 5.03 - Special Uses

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission based on the standards of Article XXIII, Special Uses

- A. Farm-related businesses (See: Article XVII, Section 17.37): Agriculturally-oriented businesses on a farm parcel, or contiguously-owned farm parcels not less than 10 acres, that are accessory to, and have a direct and intrinsic relationship to the principal agricultural use of the subject property, unless determined to be preempted by the Right to Farm Act and the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS):
 - 1. Seasonal or Year-round agricultural tourism activities, including but not limited to animal displays, mazes, hayrides, haunted barns, bonfires, trick-or-treat, and sleigh/wagon rides.
 - 2. Coffee shop or tea room.
 - 3. Temporary tent camping.
 - 4. Artisans craft sales.
 - 5. Production and sale of cider, wine, and beer.
 - 6. Venue for banquets and educational events.
- B. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the Township, and after review and approval of the Planning Commission that the proposed use does not adversely impact the residential nature of the immediate surrounding area and is necessary for the efficient and effective service of the Township.
- C. Major Home Occupations (see: Article XXI - Home Occupations).
- D. Houses of worship and cemeteries.
- E. Golf courses on at least 40 acres of land area.

- F. Group Child Day Care Home (see: Article XVII, Section 17.34)
- G. Mobile Homes as an Accessory Use for the Aged and Infirm (See: Article XVII, Section 17.25).
- H. Mineral Removal (see: Article XX – Mineral Removal).
- I. Marihuana Grower (See: Article XVII, Section 17.37)
- J. Marihuana Processor (See: Article XVII, Section 17.37)
- K. Marihuana Retailer, provided, there is at least one other authorized marihuana establishment on the same parcel (See: Article XVII, Section 17.37)

Section 5.04 - Area and Bulk Requirements

See: Article XI - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted and minimum yard setback requirements.

- A. **Alternative Density for PUD Developments:** For PUD developments, the density in the AGLD district shall be increased to one (1) unit per one and one half (1½) acres.

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ARTICLE VI
AGMD - AGRICULTURAL MEDIUM DENSITY DISTRICT

Section 6.01 - Intent

The intent of the Agricultural Medium Density District is to provide an area in the Township where small scale farming activities can continue and also allow for higher density single-family residential homes (those on smaller lots), two-family duplex dwelling units and other multi-family types of dwelling unit configurations.

This district includes mini-farms where the agricultural use of the land is coordinated with the use of the land for a single and multi-family homes and related uses.

The purpose of this district is to implement “Township Land Use Policy” expressed in the Almena Township Master Plan specifically to permit medium density residential development “south of State Highway M-43 and east of 27th Street and County Road 652.” (See Master Plan page 39).

Section 6.02 - Principal Permitted Uses

In the AGMD Agricultural Medium Density District, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this Ordinance:

- A. Farms, farm operations, and agricultural activities that are subject to the State of Michigan Right to Farm Act and the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS). Farms that are compliant with the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS) are not subject to the ordinance, nor are activities and operation preempted by the GAAMPs and the Right to Farm Act.
- B. Single-family detached dwellings or two-unit attached dwelling structures.
- C. Multi-family, two-family and single family residential Planned Unit Development, either Traditional or Cluster Developments, when approved pursuant to the provisions of Article XV - Planned Unit Development.
- D. Accessory buildings and uses (including guest houses as defined in this ordinance), customarily incidental to any of the above permitted uses.
- E. Minor Home Occupations (See: Article XXI - Home Occupations).
- F. Outdoor Swimming Pools, Jacuzzis and Hot Tubs (See: Article XVII, Section 17.29).
- G. Outdoor Kennels for Dogs (see: Article XVII, Section 17.30).

- H. Essential public utility services except cell towers elsewhere regulated by the terms of this ordinance.
- I. Adult Foster Care Family Home (see: Article XVII, Section 17.34)
- J. Family Child Day Care Home (see: Article XVII, Section 17.34)
- K. Foster Family Home (see: Article XVII, Section 17.34)
- L. Foster Family Group Home (see: Article XVII, Section 17.34)

Section 6.03 - Special Uses

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission based on the standards of Article XXIII, Special Uses.

- A. Farm-related businesses (See: Article XVII, Section 17.37): Agriculturally-oriented businesses on a farm parcel, or contiguously-owned farm parcels not less than 10 acres, that are accessory to, and have a direct and intrinsic relationship to the principal agricultural use of the subject property, unless determined to be preempted by the Right to Farm Act and the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS):
 - 1. Seasonal or Year-round agricultural tourism activities, including but not limited to animal displays, mazes, hayrides, haunted barns, bonfires, trick-or-treat, and sleigh/wagon rides.
 - 2. Coffee shop or tea room.
 - 3. Artisans craft sales.
 - 4. Production and sale of cider, wine, and beer.
 - 5. Venue for banquets and educational events.
- B. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the Township and do not adversely impact the residential nature of the immediate surrounding area. The applicant shall demonstrate to the Planning Commission that the proposed building or expansion is necessary for the effective and efficient service of the Township.
- C. Major Home Occupations (See: Article XXI - Home Occupations).
- D. Group Child Day Care Home (see: Article XVII, Section 17.34)
- E. Adult Foster Care Small Group & Large Group Homes (See: Article XVII, Section 17.34)
- F. Mobile Home as an Accessory Use for the Aged and Infirm (See: Article XVII, Section 17.25).
- G. Mobile Home Parks, as approved and certified by the State of Michigan Mobile Home Commission.

Section 6.04 - Area and Bulk Requirements

See: Article XI - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted and minimum yard setback requirements.

- A. **Alternative Density for PUD Developments:** For PUD developments, the density in the AGMD district shall be increased to one (1) unit per one (1) acre.

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ARTICLE VII
WR - WATER FRONT RESIDENTIAL DISTRICT

Section 7.01 - Intent

The purpose of the WR Waterfront Residential Zoning District is to provide areas for residential land use located adjacent to lakes and other surface water features. The size of lots and parcels should be planned to be of such size (land area) and lot width so that they can sustain healthful and sanitary on-site wastewater disposal or support a community water supply and/or sanitary sewer and wastewater disposal system.

Section 7.02 - Principal Permitted Uses

In the WR Waterfront Residential District, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this Ordinance:

- A. Single-family detached dwelling structures.
- B. A Planned Unit Development, either Traditional or Cluster Developments, when approved pursuant to the provision of Article XV - Planned Unit Development, containing single-family and/or two-family dwelling units.
- C. Farms on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than three (3) acres. For general and specialized farming including nurseries, greenhouses, animal husbandry (see Article II), beekeeping and similar bonafide agricultural enterprises and the usual agricultural buildings and structures when such operations are compliant with GAAMPS not including Livestock Production Facilities. No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals except as to serve only those persons residing on the premises,.
- D. Minor Home Occupations (See: Article XXI - Home Occupations).
- E. Outdoor Swimming Pools, Jacuzzis and Hot Tubs (See: Article XVII, Section 17.29).
- F. Outdoor Kennels for Dogs (see: Article XVII, Section 17.30).
- G. Accessory buildings and uses, customarily incident to any of the above permitted uses.
- H. Adult Foster Care Family Home (see: Article XVII, Section 17.34)
- I. Family Child Day Care Home (see: Article XVII, Section 17.34)

- J. Foster Family Home (see: Article XVII, Section 17.34)
- K. Foster Family Group Home (see: Article XVII, Section 17.34)

Section 7.03 - Special Uses

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission based on the standards of Article XXIII, Special Uses.

- A. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the Township and do not adversely impact the residential nature of the immediate surrounding area. The applicant shall demonstrate to the Planning Commission that the proposed building or expansion is necessary for the effective and efficient service of the Township.
- B. Major Home Occupations (See: Article XXI - Home Occupations).
- C. Houses of worship and cemeteries.
- D. Livestock Production Facilities having no more than 50 animal units as defined by the Michigan Department of Agriculture when such operations are compliant with GAAMPS.
- E. Group Child Day Care Home (see: Article XVII, Section 17.34)
- F. Mobile Home as an Accessory Use for the Aged and Infirm (See; Article XVII, Section 17.25).
- G. Essential public utility services except cell towers elsewhere regulated by the terms of this ordinance.

Section 7.04 - Buffer Strip Required Adjacent to Water Edge

A 100 foot natural vegetative buffer strip is required along all shorelines (See; Article XVII - General Provisions, Section 17.11).

Section 7.05 - Area and Bulk Requirements

See: Article XI - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted and minimum yard setback requirements.

**ARTICLE VIII
AS - ALMENA SETTLEMENT DISTRICT**

Section 8.01 - Intent

The purpose of the AS Almena Settlement Zoning District is to provide residential and certain types of commercial land uses for the area which historically served as the commercial center of the Township and which over time will continue to develop with a mixture of commercial, single-family and mixed-use commercial and residential development. This area is defined in the Township Master Land Use Plan and is shown on the Zoning Map. Because of the current pattern of small parcel sizes, the minimum size and lot frontage of future lots and parcels will be determined so that they can sustain healthful and sanitary on-site wastewater disposal or potentially support a community water supply and/or sanitary sewer and wastewater disposal system as well as remain compatible with adjacent and nearby existing buildings and structures.

The purpose of this district is to implement “Township Land Use Policy” expressed in the Almena Township Master Plan specifically to permit medium density residential development in the Almena settlement area provided it is well integrated with the character of the area. In the future, the Almena settlement area will permit appropriately scaled mixed uses of a unified village character and appearance. Design will be compact, pedestrian-orientated and aesthetically pleasing. Civic, recreational, neighborhood-based commercial and other small-scale multiple family and mixed-use developments will be encouraged to integrate into the village atmosphere.” (See Master Plan page 39).

The general goals of this district are to encourage commercial and residential land uses of the size and intensity of development that will:

- A. Retain the historic character and identity of future development in this area by encouraging new development to have a similar architectural style of existing buildings and structures.
- B. Encourage mixed-use developments that allow for commercial enterprises to be housed with dwelling units, in a single structure especially where the business owner is the occupant of the dwelling unit.
- C. Limit the size of the commercial building space to reduce the amount of vehicular traffic, need for off-site parking and on-site stormwater storage.
- D. Encourage use of private, community water, wastewater and stormwater systems including joint use of off-site parking when more than one (1) parcel of land is developed by an individual or multiple developers or property owners.

- E. Encourage a higher level of site amenities for new development, including sidewalks or pathways interconnecting businesses, landscaping, uniform signage, on-site lighting, street furniture and other features designed for customer convenience and use.
- F. Require site plan approval for all new development including review of architectural facade plans by the Planning Commission and Township Board to assure the continuation of the goals of this zoning district.

Section 8.02 - Principal Permitted Uses

In the AS Almena Settlement District, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this Ordinance:

- A. Single-family detached or two-unit attached dwelling structures.
- B. A Planned Unit Development, either Traditional or Cluster Developments when approved pursuant to the provisions of Article XV - Planned Unit Development, containing single-family and/or two-family dwelling units.
- C. Commercial and other similar uses in a building having no more than 5,000 square feet of gross building first floor area, including:
 - 1. Generally recognized retail businesses which supply goods and commodities on the premises, such as but not limited to groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing, notions and hardware, but not including adult theaters or bookstores.
 - 2. Offices of doctors, dentists, and other similar practitioners.
 - 3. Artisan studios including a residential dwelling unit when occupied by the artisan.
 - 4. Post office and similar governmental office buildings, serving persons living in the adjacent areas.
 - 5. Dining and food sales including but not limited to a delicatessen, café, coffee shop, bagel shop, ice cream parlor, and/or full-service restaurant. Alcohol sales for consumption on site may be permitted. Drive-thru service is not permitted in the AS district.
 - 6. Farms on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than three (3) acres. For general and specialized farming including nurseries, greenhouses, raising of animals, animal husbandry (see Article II), beekeeping, and similar bonafide agricultural enterprises and the usual agricultural buildings and structures when

such operations are compliant with GAAMPS, not including Livestock Production Facilities. No farms shall be operated for the disposal of garbage, sewage, rubbish, offal, or rendering plants or for the slaughtering of animals except as to serve only those persons residing on the premises.

7. Other similar uses when approved by the Planning Commission, when such proposed businesses meet the historical appearance standards established by the Planning Commission for this district.
- D. Outdoor Swimming Pools, Jacuzzis and Hot Tubs (See: Article XVII, Section 17.29).
- E. Outdoor Kennels for Dogs (see: Article XVII, Section 17.30).
- F. Minor Home Occupations (See: Article XXI - Home Occupations).
- G. Accessory buildings and uses, customarily incident to any of the above permitted uses.
- H. Adult Foster Care Family Home (see: Article XVII, Section 17.34)
- I. Family Child Day Care Home (see: Article XVII, Section 17.34)
- J. Foster Family Home (see: Article XVII, Section 17.34)
- K. Foster Family Group Home (see: Article XVII, Section 17.34)

Section 8.03 - Special Uses

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission based on the standards of Article XXIII, Special Uses.

- A. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the Township and do not adversely impact the residential nature of the immediate surrounding area. The applicant shall demonstrate to the Planning Commission that the proposed building or expansion is necessary for the effective and efficient service of the Township.
- B. Major Home Occupations (See: Article XXI - Home Occupations).
- C. Houses of worship and cemeteries.
- D. Group Child Day Care Home (see Article XVII, Section 17.34).

- E. Mobile Home as an Accessory Use for the Aged and Infirm (See; Article XVII, Section 17.25).
- F. Essential public utility services except cell towers elsewhere regulated by the terms of this ordinance.

Section 8.04 - Site Plan Required for Planning Commission Approval

Due to the nature of the types of uses that may be proposed for this zoning district, all development within the AS Almena Settlement Zoning District shall be governed by a Site Plan prepared and approved in accord with Article XXII- Site Plan Review Procedures.

Section 8.05 - Area and Bulk Requirements

See: Article XI- Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted and minimum yard setback requirements.

ARTICLE IX
C - COMMERCIAL DISTRICT

Section 9.01 - Intent

The intent of the C-1, C-2 and C-3 Commercial Districts is designed to provide designated areas within the Township for servicing the needs of Township residents and includes single use buildings, shopping centers, offices and related buildings developed on a single site or on multiple parcels. The location of these districts may encompass one (1) or more individual properties and will typically be located at nodes of traffic and activity in the Township, as identified in the Township Master Plan. At times, these areas may include feeder roads to move traffic from the state or county collector to internal parking areas of individual business establishments. In the Commercial Districts, site design standards are to be observed that assure protection of adjacent properties in other zones from adverse influences of traffic, outdoor delivery areas serving individual businesses and on-site illumination, either parking/driveway lighting or from on-site signage.

The purpose of this district is to implement “Township Land Use Policy” expressed in the Almena Township Master Plan specifically to promote commercial uses that “will be a clustered node of activity near the intersection of State Highway M-40 and M-43. Access management and design guidelines will promote an integrated area with minimum driveway access points to the State Highways. Parallel access drives, shared parking and pedestrian interconnections will mesh this commercial area together in a coherent design.” (See Master Plan page 39).

The general goals of this district include, among others, the following specific purposes:

- A. To promote the most desirable use of land in accordance with a well-considered plan of development and to take advantage of major highways, roads and utilities.
- B. To protect the character and established patterns of adjacent development.
- C. To conserve the value of land and buildings and other structures, and to protect the Township’s tax revenue.
- D. To provide sufficient space, in appropriate locations, to meet the needs of the Township’s expected future commercial/retail economy, including multi-tenant shopping centers, housing, retail, service, office and related businesses.
- E. To protect abutting non-commercial districts by separating them from commercial and retail activities.

For the purposes of this zoning district there shall be three (3) categories of land use, identified by the intensity of allowable development, defined as follows:

- A. C-1 - small retail, service and office uses located in a building having no more than 5,000 square feet of gross building first floor area.
- B. C-2 - retail, service and office uses located in a building having no more than 10,000 square feet of gross building first floor area.
- C. C-3 - retail, service and office uses located in a building having more than 10,000 square feet of gross building first floor area.

Section 9.02 - Principal Permitted Uses

In each of the C-1, C-2 and C-3 Commercial District, no building, land or premises shall be used and no building or structure erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

A. Uses permitted in the C-1 district:

- 1. Generally recognized retail businesses which supply goods and commodities on the premises, such as, but not limited to groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing, notions and hardware, but not including adult theaters or bookstores.
- 2. Offices of doctors, dentists, and other similar practitioners.
- 3. Artisan studios including a residential dwelling unit when occupied by the artisan.
- 4. Post office and similar governmental office buildings, serving persons living in the adjacent areas.
- 5. Farms on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than three (3) acres. For general and specialized farming including nurseries, greenhouses, raising of animals, animal husbandry (see Article II), beekeeping and similar bonafide agricultural enterprises and the usual agricultural buildings and structures when such operation are compliant with GAAMPS not including Livestock Production Facilities. No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals except as to serve only those persons residing on the premises.

B. Uses permitted in the C-2 district:

- 1. All uses allowed in the C-1 district.
- 2. Department, discount, building supply, appliance warehouse and other large multi-good retail establishments.

3. Manufacture and assembly of products when done in combination with the retail sales of such products.

C. Uses permitted in the C-3 district:

1. All uses allowed in the C-1 and C-2 districts.
2. Hotels, motels and other lodging facilities.
3. Restaurants including fast-food drive-in/drive-thru service facilities.

D. Other Uses allowed in the C-1, C-2 and C-3 district:

1. Off-street parking lots.
2. Traditional Planned Unit Developments when approved pursuant to the provision of Article XV - Planned Unit Development.
3. Additions to or reconstruction of an existing single-family detached dwelling unit.
4. Accessory structures and uses customarily incidental to the above permitted uses.

E. Similar and Dissimilar Uses Allowed by Planning Commission Approval

1. The Planning Commission may approve other similar uses not listed that may be allowed when determined by the Planning Commission to be similar and compatible with the specific uses allowed within the C-1, C-2 or C-3 district, as applicable.
2. The Planning Commission upon finding other uses to be inconsistent with allowable uses in the C-1, C-2 and C-3 district, but desirable and compatible with the intended purpose of the C-1, C-2 or C-3 district, may determine the use to be a compatible Special Use which can be approved pursuant to the Special Use process of Section 9.03.

Section 9.03 - Special Uses

The following uses are permitted in the C-1, C-2 and C-3 districts, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission based on the standards of Article XXIII, Special Uses.

- A. Compatible Special Use as determined by the Planning Commission pursuant to Section 9.02.E.2.
- B. Construction of a new single-family detached dwelling unit. Approval of this special use shall be based on the previous use(s) of the property and the use(s) of the surrounding property. As

this is a commercial district, the property is intended for the development of new commercial uses and not new residential uses.

- C. Dwelling units as part of a mixed-use development.
- D. Temporary and Permanent Outdoor Flea Markets subject to the following:
 - 1. All sales and storage operations are fully enclosed within a building and/or structure on a property meeting the minimum lot size, yard setback and parking requirements, except as provided in subsection 9.03.D.2 below.
 - 2. If the sales operation or any portion of the sales operation is intended to be conducted as an open air operation, either on a permanent or temporary basis, such operation shall be first approved by the Planning Commission based on a site plan showing:
 - a. The location and extent of the land area designated for outdoor sales and storage.
 - b. The number, size and location of off street parking for the maximum number of customers that could frequent the sales operation at any one time period.
 - c. The planned designation of ingress and egress points to a county highway.
 - d. The method to supply water, wastewater disposal and trash removal.
 - e. The hours of operation and provision for illumination if said operation will continue past dusk.
 - f. Proof of property ownership or an executed lease or other authorization allowing the conduct of said operation, if the property is not owned by the applicant/operator.
 - g. The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
- E. Livestock Production Facilities having no more than 50 animal units as defined by the Michigan Department of Agriculture when such operations are compliant with GAAMPS.
- F. Adult Foster Care Family Home (see: Article XVII, Section 17.34)
- G. Family Child Day Care Home (see: Article XVII, Section 17.34)
- H. Foster Family Home (see: Article XVII, Section 17.34)
- I. Foster Family Group Home (see: Article XVII, Section 17.34)
- J. Group Child Day Care Home (see: Article XVII, Section 17.34)

- K. Child Day Care Center (see: Article XVII, Section 17.34)
- L. Self-Storage Facilities, where all storage space is enclosed within one or more buildings.
- M. Special Uses limited to C-3 Districts
 - 1. Marihuana Grower (see: Article XVII, Section 17.37)
 - 2. Marihuana Microbusiness (see: Article XVII, Section 17.37)
 - 3. Marihuana Processor (see: Article XVII Section 17.37)
 - 4. Marihuana Retailer (see: Article XVII, Section 17.37)
 - 5. Marihuana Safety Compliance Facility (see: Article XVII, Section 17.37)
 - 6. Marihuana Secure Trasporter Facility (see: Article XVII, Section 17.37)
- N. Special Uses limited to C-1 and C-2 Districts
 - 1. Marihuana Grower (see: Article XVII, Section 17.37)
 - 2. Marihuana Processor (see: Article XVII, Section 17.37)
 - 3. Marihuana Retailer (see: Article XVII, Section 17.37)
 - 4. Marihuana Safety Compliance Facility (see: Article XVII, Section 17.37)
 - 5. Marihuana Secure Transporter Facility (see: Article XVII, Section 17.37)

Section 9.04 - General Requirements

- A. All business, servicing, or processing except for off-street parking, or loading, shall be conducted within a completely enclosed building unless a designated outdoor sales and/or storage area is otherwise approved as part of the site plan or special use application for the designated use on site. The proposed outdoor storage and/or sales area shall satisfy all setback requirements of the site and shall not exceed 10% of the gross lot area. Outdoor storage areas shall be limited to the side or rear of the property and shall be completely screened from view by adjacent properties and roadways by fencing and/or landscaping, consistent with the requirements of Section 10.05.
- B. Warehousing or indoor storage of goods or materials beyond that normally incident to the above permitted uses is prohibited.

- C. All loading and parking shall be provided off-street.
- D. The storage of any soil, fertilizer, or other loose unpacked materials shall be contained so as to prevent any effects on adjacent uses.

Section 9.05 - Site Plan Requirements

Unless otherwise indicated herein, the Planning Commission shall review and approve a site plan prepared pursuant to Article XXII - Site Plan Review Procedures for any development within the C-1, C-2, and C-3 districts. This shall include the development of a new single-family home, which is a special use in these districts. Accessory structures or permitted additions to an existing single family home shall not be required to go through the special use permit or site plan review process but shall be reviewed similar to other residential accessory structures or expansions.

Section 9.06 - Area and Bulk Requirements

See: Article XI - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted and minimum yard setback requirements.

ARTICLE X
I - INDUSTRIAL DISTRICT

Section 10.01 - Intent

The I Industrial District is designed primarily to accommodate wholesale activities, warehouses, and other industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I Industrial District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished, products from previously prepared material.

The purpose of this district is to implement “Township Land Use Policy” as expressed in the Almena Township Master Plan recognizing that “Industrial development is not accommodated in the Future Land Use Plan map of the Township at the present time due to inadequate provision of municipal water and wastewater systems proximate to the logical area for such development. Industrial development within Almena Township shall be reexamined in future updates of this Plan” and this zoning district is established for when its use is deemed necessary (see Master Plan page 39).

The general goals of this district include, among others, the following specific purposes:

- A. To provide sufficient space, in appropriate locations, to meet the needs of the Township's current and expected future industrial, manufacturing and related activities.
- B. To protect abutting non-commercial districts by separating them from manufacturing and other industrial activities by prohibiting the use of such industrial areas for new residential development.
- C. To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards, and from offensive noise, vibration, smoke odor and other objectionable influences.
- D. To promote the most desirable use of land in accordance with a well-considered plan.
- E. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the Township's tax revenue.

Section 10.02 - Principal Permitted Uses

In the I Industrial District, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this Ordinance:

- A. Basic research, design and product development when conducted within a completely enclosed building.

- B. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building:
1. Warehousing, wholesale establishments and trucking facilities.
 2. The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
 3. The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.
 4. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
 5. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
 6. Manufacture or assembly of electrical appliances, electronic instruments and devices.
 7. Laboratories - experimental, film or testing.
 8. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
 9. Central dry-cleaning plants or laundries provided that such plants shall not deal directly with consumers at retail.
- C. Warehouses, storage, transfer plus electric and gas utility service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulators. Water and gas tank holders. Railroad transfer and storage tracks. Railroad rights of way. Freight terminals.
- D. Storage facilities for building materials, sand, gravel, stone, lumber, storage or contractor's equipment and supplies, provided that all outdoor storage conforms with the Visual Barrier requirements of Section 17.18.
- E. Commercial kennels.
- F. Greenhouses.

- G. Trade or industrial schools.
- H. Other uses of a similar nature as determined by the Planning Commission and no more objectionable character than the above uses.
- I. Recycling center/yards, when such are entirely enclosed within a building or within an eight (8) foot visual barrier wall.
- J. Traditional Planned Unit Developments when approved pursuant to the provision of Article XV - Planned Unit Development.
- K. Accessory buildings and uses customarily incidental to any of the above permitted uses.

Section 10.03 - Special Uses

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission based on the standards of Article XXIII, Special Uses.

- A. Auto engine and body repair, and undercoating shops, when completely enclosed.
- B. Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the I Industrial District.
- C. Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and or nuisances.
- D. Other uses of a similar character to the above uses.
- E. Adult Uses, including massage parlors subject to the following conditions where it is recognized that these uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several are concentrated in certain areas, or when located in proximity to an agricultural / residential district, thereby having a detrimental effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential area or other neighborhood. These controls do not legitimize activities which are prohibited in other Sections of the Zoning Ordinance.
 - 1. Adult uses shall comply with the following requirements:

- a. The adult use shall not be located within a 1,000 foot radius of any other such use or be located on a lot or parcel within 1,000 foot of a public park, school, child care facility, church, or place of worship.
- b. Any sign or signs proposed for an adult use must comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
- c. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height and reads "Persons under the age of 18 years are not permitted to enter the premises."
- d. No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.
- e. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
- f. All off-street parking areas shall be illuminated from at least 90 minutes prior to sunset to at least 60 minutes after closing.
- g. No adult use shall be open for business prior to 10:00 a.m., nor after 10:00 p.m. However, employees or other agents, or contractors of the business may be on the premises at other hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.
- h. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission, as provided herein.

Section 10.04 - Site Plan Requirements

The Planning Commission shall review and approve a site plan prepared pursuant to Article XXII- Site Plan Review Procedures for any development within the I Industrial District.

Section 10.05 - Open Storage - Visual Barrier Requirements

That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding, or processing shall be totally obscured by a fence, landscaping or wall on those sides abutting any residential use or property in an agricultural or residential zoning district, and along any front yard abutting a public thoroughfare except as otherwise provided in

Article XVII, Section 17.18. In the Industrial District, the extent of such the visual barrier will be determined by the Planning Commission on the basis of usage of the property as indicated by the user of the property however, any visual barrier shall not be less than four feet six inches (4'-6") in height and may be required by the Planning Commission, depending upon land usage, be up to eight (8) feet in height, and further, be subject to the requirements of Article XVII - General Provisions. A chain link fence combined with continuous dense evergreen shrub plantings shall be considered a visual barrier wall.

Section 10.06 - Area and Bulk Requirements

See: Article XI Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted and minimum yard setback requirements.

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**ARTICLE XI
SCHEDULE OF DISTRICT REGULATIONS**

Section 11.01 - Table of Dimensions
Revised 10-1-2010

Zoning District	Lot Size and Dimensions			Minimum Yard Set Back (4) (11)			Minimum Building Size Principal Use	Maximum Building Height		Percentage Total Impervious Surface - Lot Area Coverage ⁽³⁾ (%)
	Maximum Density ⁽¹⁰⁾ (acre(s) per unit)	Minimum Lot Area ⁽⁶⁾ (acres - sq. ft.)	Minimum Frontage (feet)	Front (feet) ⁽⁵⁾	Rear (feet)	Side ⁽¹⁾ (feet)	Sq. Ft.	Stories	Ft.	
AG	5 ⁽⁹⁾	2	165	83	25	20	1,000 ⁽²⁾	22	35	20
AGLD	3 ⁽⁹⁾	1½	145	83	25	20	1,000 ⁽²⁾	22	35	30
AGMD	2 ⁽⁹⁾	1	125	83	25	20	800 ⁽²⁾	22	35	30
WR	---	¾	125 ⁽⁷⁾	83 ⁽¹³⁾	(8)	(14)	800 ⁽²⁾	22	35	40
AS	---	14,000 sq. ft.	90	53	10	10	800 ⁽²⁾	22	35	80 ⁽¹²⁾
C1	---	1	165	83	25	20	5,000 (max.)	---	35	50
C2	---	1	165	83	25	20	10,000 (max.)	---	35	50
C3	---	1	165	83	25	20	10,000 (min.)	---	35	50
I	---	2	165	83	25	20				
CR	See Article XIII - Corridor Overlay Zoning District									
AP	See Article XIV - Airport Overlay Zoning District									
PUD	See Article XV - Planned Unit Development Overlay Zoning District									

See: foot notes on following page.

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Section 11.02 - Notes to Schedule of Regulations –

(Numbers correspond to footnotes on Section 11.01)

1. See Article XVII - General Provisions, Section 17.11 for required 50 foot setback from the waterfront or wetland.
2. Individual dwelling units or each individual dwelling unit in a multiple dwelling structure that is a principal use shall satisfy the minimum building size.
3. Percentage total lot coverage refers to all “hard surfaces” including buildings, accessory use structures, driveways, and any other surface impervious to rain water seepage.
4. All properties having frontage on M-40 and M-43 are required to have front or side yard setback(s) of 200 feet measured from the centerline of the road.
5. The front setback is measured from the centerline of the road right-of-way. If the property is legally defined to the edge of the road right-of-way, the setback can be measured from the front property line and front yard setback dimension reduced by 33 feet.
6. Minimum lot size does not include any portion of a lot required/designated for road right-of-way purposes. For the purposes of calculation of the minimum lot size for an individual property legally described and recorded with the Van Buren County Register of Deeds using a legal description prepared under the Government Rectangle Survey System, the total lot size as measured in acres or square feet shall include all land measured to the center of the section line whether there is road constructed on the section line or not.
7. On waterfront properties, the minimum frontage requirement shall also apply to the water frontage. The distance shall be measured as a straight line between the points where the side property lines intersect with the ordinary high water mark.
8. If the lot is located on the water, the rear yard setback (waterfront) shall be 50 feet (see Section 17.11). If the lot is not located on the water, the rear yard setback shall be 25 feet.
Revised 02-08-2017
9. See Section 4.05 for alternative minimum lot size scenarios in the AG district, Section 5.04 for the AGLD district, and Section 6.04 for the AGMD district.
10. The maximum density shall establish the maximum number of dwelling units that may be established on a lot, parcel, or unit as of the effective date of this Ordinance, even though the minimum lot size may allow for a greater density. In such instances when a property is divided, the number of divisions created is based, in part, on the maximum density standard, while the size and arrangement of the divisions is based, in part, on the minimum lot size dimensions. (Other applicable requirements, such as the Township Land Division Ordinance, shall also be considered.)

11. Accessory use structures shall satisfy all setback requirements of the district in which they are located. See Section 17.12 for this and all other standards regarding accessory use structures.
12. For lots, units, or parcels two (2) acres in size or more, the lot area coverage requirement shall be reduced to 30%.
13. Along private roads, platted roads, and easements in the WR district, the front yard setback shall be 25 feet from the property line (road right-of-way) or easement boundary line.
Revised 10-1-2010
14. Side yard setbacks in the WR district shall be based on the lot width, as defined in Article II of this Ordinance, of the subject parcel as illustrated in the following table: **Revised 10-1-2010**

Lot Width	Minimum Side Yard Setback Requirement
120 feet or more	20 feet
100-119 feet	12 feet
70-99 feet	10 feet
50-69 feet	7 feet
Less than 50 feet	5 feet

**ARTICLE XII
RESERVED**

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ARTICLE XIII
CR - CORRIDOR OVERLAY DISTRICT

Section 13.01 - Purpose

The purpose of the CR - Corridor Overlay District is to meet the future needs for safe and efficient traffic flow along M-40 and M-43 while ensuring reasonable access to existing duly recorded parcels of land along these corridors.

This Article is intended to respond to continued incremental development along each corridor that will increase traffic volumes and without standards would introduce additional conflict points, which will erode traffic operations and increase potential for vehicle crashes. Findings from numerous studies conclude that standards on the number and placement of access points (driveways and side street intersections) can preserve the roadway capacity and reduce the potential for crashes. The standards in this Article are based on recommendations published by various national transportation organizations, the Michigan Department of Transportation, other states, and experience with other similar corridors. In addition, standards are based on a specific Access Management study by the Michigan Department of Transportation (MDOT) and the Township for these roadways.

The standards of this Article are intended to help achieve the following objectives:

- A. Encourage efficient flow of traffic by minimizing the disruption and conflicts between through traffic and turning movements.
- B. Improve safety and reduce the potential for crashes.
- C. Avoid the proliferation of unnecessary curb cuts and driveways, and eliminate or reconfigure existing access points that do not conform to the standards herein, when the opportunities arise.
- D. Require coordinated access among adjacent lands, where possible, using frontage roads, service drives and shared access points, where appropriate as determined by the Planning Commission and Township Board.
- E. Avoid the need for unnecessary and costly reconstruction, which disrupts business operations and traffic flow.
- F. Establish uniform standards to ensure fair and equal applications that are the minimum necessary to meet the objectives.
- G. Provide landowners with reasonable access, though the access may be restricted to a shared driveway or service drive or via a side or rear street, even though the number and

location of access drives may not be the arrangement most desired by the landowner or applicant.

- H. Promote a more coordinated development review process for the Township with MDOT.

Section 13.02 - Applicability

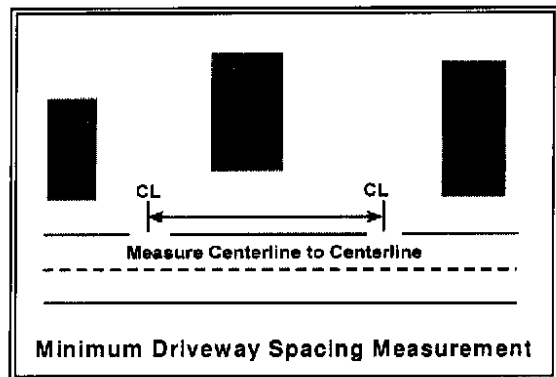
The standards of this Ordinance shall apply to all lots with frontage along M-40 and M-43 and in addition to, and simultaneously with, the regulations of the underlying zoning district.

- A. No site plan, land division, subdivision or site condominium project shall be approved unless compliance with the access spacing standards herein is demonstrated. Compliance with this ordinance shall be required to demonstrate that a lot is accessible as required under the Land Division Act (Act 288 of 1967, as amended). This may require wider lots than permitted by the underlying zoning district.
- B. For building or parking lot expansions, or changes in use, the Planning Commission in conjunction with MDOT, shall determine the extent of upgrades to bring the site into greater compliance with the access standards. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, location and design of median crossovers, and recommendations from MDOT. Required improvements may include removal, rearrangement or redesign of site access points or median crossovers.
- C. The requirements of this article and this overlay district shall not apply to individual uses not subject to site plan review (or similar Planning Commission review and/or approval), such as but not limited to single family dwellings and farms. (They shall, however, apply to developments containing multiple single family dwellings that are subject to site plan review or similar approval.)
- D. The standards herein were developed collaboratively between Almena Township and MDOT. Where conflict occurs, the more restrictive standards shall apply.

Section 13.03 - Additional Submittal Information

In addition to the submittal information required for site plan review, the following shall be provided with any application for site plan or subdivision or land division approval:

- A. Existing access points within 300 feet on both sides of the M-40 and M-43 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs, plat or survey, and dimensions shown from proposed access points to ensure



standards for access point spacing are met. For sites along M-40 and M-43 with a median, the location of the nearest median cuts north and south of proposed access points shall also be shown.

- B. Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval by Almena Township and the Van Buren County Road Commission. Once approved, this agreement shall be recorded with the Van Buren County Register of Deeds, and the documentation shall be provided to the Township and Road Commission.
- C. Dimensions shall be provided for driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs) and all curb radii within the site. For service drives, the width, radii and elevations at termini shall be provided to ensure extensions in the future are practical.
- D. The site plan shall illustrate the route and dimensioned turning movements of any expected truck traffic, school buses, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles to illustrate the access point and median cuts along M-40 and M-43 are sufficient to accommodate the vehicles.
- E. Submittal of a traffic impact study may be required where modifications from access recommended in the Corridor Plan are requested. The traffic impact study shall be prepared by a firm or individual that is a member of the Institute of Transportation Engineers with demonstrated experience in production of such studies. The methodology and analysis of the study shall be in accordance with accepted principles as described in the handbook "Evaluating Traffic Impact Studies, a recommended Practice for Michigan," developed by MDOT.
- F. The applicant shall provide correspondence that the preliminary site plan, land division or subdivision has been submitted to MDOT, for their information and comments prior to submission to the Township for processing. Any correspondence from MDOT on the general access design and geometrics (not approval) shall be considered during the site plan review processes. The Township approval of development proposals does not negate the responsibility of an applicant to subsequently secure access permits from MDOT. Review of submittals shall follow the procedure outline in the flow chart titled M-40 and M-43 Corridor Site Plan Access Approval Procedure for MDOT, and Almena Township, when available.

Section 13.04 - Access Management Standards

Access points (not including driveways that serve a single family home, duplex or utility substation) shall meet the following standards.

- A. Access for development proposals, including new construction or changes in use, shall be consistent with the recommendations illustrated in the M-40 and M-43 Corridor Access

Management Plan, such as, driveway closures or redesign, provisions of service drives, and location of new access points. The Planning Commission may approve modifications to the location of the access points and alignment of service drives consistent with the standards below and MDOT staff review.

B. Sufficient setbacks shall be provided between the M-40 and M-43 right-of-way and any proposed building to provide sufficient area for service drives recommended in the Access Management Plan.

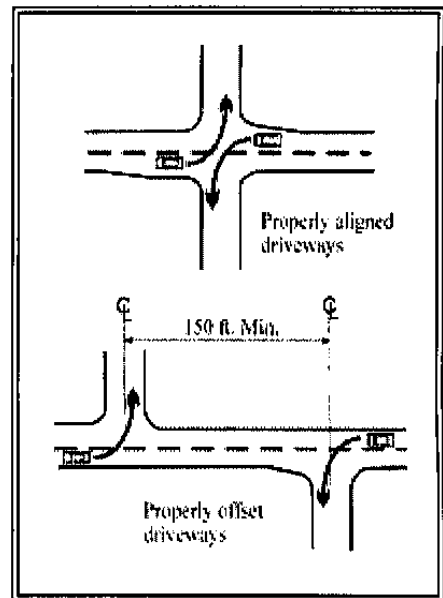
C. Access spacing from intersections, other driveways and median crossovers shall meet the standards of this Article and MDOT’s guidelines. In general, the number of access points shall be the fewest needed to allow motorists reasonable access to the site and shall provide the opportunity for shared access with adjoining lots. Access via a rear or side street or a shared access system without a direct individual access onto M-40 and M-43 may be the only access permitted.

D. Access points shall be spaced from other access points along the same side of M-40 and M-43 (measured from centerline to centerline), based on the following table:

Posted Speed (mph)	Driveway Spacing (in feet)
40	300
45	350
50 +	455

E. Access points along section of M-40 and M-43 with a median shall be located in consideration of existing or approved median crossovers to provide a sufficient length for weaving across travel lanes and storage within the median consistent with MDOT published standards. In some cases, existing median cuts may need to be closed or redesigned to meet current design standards. New median crossovers shall only be considered where found to maintain traffic flow and reduce the potential for accidents.

F. In segments without a median, access points shall be either aligned with driveways or spaced 150 feet apart as shown in the following illustration:



G. Shared driveways, frontage roads or rear service drives connecting two (2) or more lots or uses shall be required in instances where the Planning Commission determines that reducing the number of access points will have a beneficial impact on traffic operations and safety. In particular, service drives shall be required where recommended in the M-40 and M-43 Corridor Plan. The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic

conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). Frontage roads or service drives shall be constructed in accordance with the following standards:

1. Service roads shall generally be parallel or perpendicular to the front property line and may be located either in front of, adjacent to, or behind, principal buildings. In considering the most appropriate alignment for a service road, the Planning Commission shall consider the setbacks of existing buildings and anticipated traffic flow for the site and the M-40 and M-43 Access Management Plan.
 2. The service road shall be within an access easement permitting traffic circulation between properties. This easement shall be approved by the Township and Van Buren Road Commission and recorded with the Van Buren County Register of Deeds. Each property owner shall be responsible for maintenance of the easement and service drive.
 3. Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of 20 feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum 60 feet of throat depth provided at the access point, measured between the public street right-of-way and the pavement of the parallel section of the frontage road.
 4. Service roads shall have a minimum pavement width of 26 feet and be constructed of a base, pavement and curb with gutter that is in accordance with the Van Buren County Road Commission standards.
 5. The service road is intended to be used exclusively for circulation, not as a parking maneuvering aisle. The Planning Commission may require the posting of “no parking” signs along the service road. One-way roads or two-way roads constructed with additional width for parallel parking may be allowed if it can be demonstrated that parking along the service road will not significantly affect the capacity, safety or operation of the service road.
 6. The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This may require use of aerial photographs, property line maps, topographic information and other supporting documentation.
- H. No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any

driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating such driveways shall be at the expense of the abutting property owner(s).

- I. The Township, in conjunction with MDOT, may require construction of a deceleration taper, deceleration lane, passing lanes, modification to existing median cuts or similar improvements along the site frontage to ensure safe and efficient traffic operation.

Section 13.05 - Application to Existing Sites & Modification Standards

- A. Given the variation in existing physical conditions along the corridor, modifications to the spacing and other standards above may be permitted by the Planning Commission as part of the site plan review process upon a finding that the following conditions apply:
 - 1. Practical difficulties exist on the site that make compliance unreasonable (sight distance limitations, topography, wetlands, drain or water body, woodlands that will be preserved, existing development, existing non-conforming width, unique site configuration or shape), or existing off-site access points make it impractical to fully comply with the standards.
 - 2. The use involves an access improvement to an existing site or a new use that will not generate any more traffic than the previous use or there is only one (1) access point that is not being changed.
 - 3. The proposed modification is consistent with the general intent of the preceding standards, the recommendations of the M-40 and M-43 Corridor Access Management Plan, MDOT guidelines, and both Almena Township and MDOT staff support the proposed access design.
 - 4. If deemed necessary by the Van Buren County Road Commission or Planning Commission, a traffic study by a qualified traffic engineer has been provided that certifies the modification will improve traffic operations and safety along M-40 and M-43, and is not simply for convenience of the development. Roadway or intersection control or driveway design change improvements will be made to improve overall traffic operations prior to the project completion or occupancy of the first building.
 - 5. Indirect or shared access has been provided to the extent practical.
- B. The decision by the Planning Commission under this ordinance may be appealed to the Zoning Board of Appeals. In consideration of this appeal, the ZBA shall also apply the standards above in addition to the other appeal criteria.

ARTICLE XIV
AP - AIRPORT OVERLAY DISTRICT

Section 14.01 - Intent.

The Airport Overlay Zoning District is an additional set of zoning regulations governing development permitted by the terms of the underlying zoning district for specific properties located in proximity of the Almena Airport as required by Section 203 (2) of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the Airport Zoning Act, P.A. 23 of 1950, as amended (Ex. Sess.).

The intent of these additional regulations is to prevent the location of potential hazards to aviation by restricting the height of buildings and structures located on individual properties abutting and in proximity of the Almena Airport.

Section 14.02 - Airport Approach (or Layout) Protection Plan.

The Michigan Department of Transportation, Aeronautics Division has prepared and the Michigan Aeronautics Commission has approved an Approach (or Layout) Plan prepared pursuant to Section 151 of the Michigan Aeronautics Code, P.A. 327 of 1945, as amended for the Almena Airport. This Plan is composed of two (2) maps and one (1) explanatory sheet:

Land Use Zoning Map which describes accident safety zones on land surrounding the airport wherein land use planning and regulatory measures will be applied.

Accident Safety Zones, Land Use Guidelines and Planning Strategies for New Development which describe specific land use characteristics, land use guidelines and land use planning strategies for each accident safety zone.

Part 77 Surfaces Map which details the maximum allowable height for buildings and structures within the AP - Airport Overlay Zoning District.

Section 14.03 - Jurisdiction of Overlay Zoning District.

The geographic jurisdiction of the AP - Airport Overlay Zoning District shall be that area defined in the Part 77 Surfaces Map dated February, 2007, prepared by the Michigan Department of Transportation, Aeronautics Division and approved by the Michigan Aeronautics Commission as part of the Airport Approach Protection Plan, prepared pursuant to CFR Title 14; Part 77, Objects Affecting Navigable Air Spaces and more specifically Part 77.25, Civil Airport Image Surfaces.

Section 14.04 - Relationship to Underlying Zoning Regulations.

The AP - Airport Overlay Zoning District imposes certain restrictions upon the location and height of buildings and structures specifically allowed in each underlying zoning district classification shown on the zoning map.

- A. **Uses Permitted by Right but Subject to Maximum Height Limitations.** Any use permitted by right and any use permitted by special use approval allowable by the terms of the underlying zoning district shall be permitted provided the location and height of all buildings and structures do not exceed the maximum height limitation set forth in the Part 77 Surfaces Map.
- B. **Zoning Board of Appeals May Grant Variances to Height Limitations.** An applicant may request and the Zoning Board of Appeals may grant a variance from the height limitation terms of this district upon filing an approved "Acknowledgment of Notice" and receipt of a "Determination of No Hazard" issued by the Federal Aviation Administration and a Michigan Department of Transportation "Tall Structures Permit" issued pursuant to P.A. 259 of 1959, as amended, permitting the construction of a building or structure exceeding the height limitation imposed upon the property as set forth in the Part 77 Surfaces Map.

Section 14.05 - Nonconforming Uses of Land, Buildings and/or Structures.

It is the policy of Almena Township to eliminate over time all nonconforming buildings and structures inconsistent with the height requirements of the Part 77 Surfaces Map. Nonconformities may continue but not be enlarged or expanded except in conformity with the requirements of the Part 77 Surfaces Map height regulations until expiration of their useful life, removal, or destruction by any means, or upon being ordered to be removed as a hazard to aviation by the Federal Aviation Administration and/or Michigan Department of Aeronautics.

Section 14.06 - Site Plan and Approval Requirements.

A site plan prepared pursuant to Article XXII - Site Plan Review Procedures showing the location and height of all buildings and structures shall accompany an application for a building permit for new construction or renovation of an existing building or structure on any property within the AP - Airport Overlay Zoning District. The Zoning Administrator or Building Official may accept less information than required in cases where the applicant can provide adequate information to determine the exact location of the building(s) and/or structure(s) upon the property and the location of boundaries of the height requirements imposed by the Part 77 Surfaces Map.

Section 14.07 - Notification of the Federal Aviation Administration (FAA).

All applicants for a building permit in the AP - Airport Overlay Zoning District proposing construction of a building or other structure of 200 or more feet in height or a height exceeding the elevation shown in the Part 77 Surfaces map, shall provide notice to the Michigan Department of Transportation, Aeronautics Division and the Federal Aviation Administration as required pursuant to CFR Title 14, Part 77, Objects Affecting Navigable Air Spaces and more specifically Part 77.13, Construction or Alteration Requiring Notice.

Section 14.08 - FAA Determination & MDOT Permit to be Filed Prior to Issuance of Building Permit.

The Zoning Administrator and/or Building Official shall not issue a zoning compliance permit or building permit until the applicant has filed with Almena Township the “Acknowledgment of Notice” and a “Determination of No Hazard” issued by the Federal Aviation Administration and a Michigan Department of Transportation “Tall Structure Permit” issued pursuant to P.A. 259 of 1959, as amended, concerning the proposed construction or alteration.

Section 14.09 - Zoning Map Designation and Part 77 Map Incorporated by Reference.

The Official Zoning Map shall reference the AP - Airport Overlay Zoning District, the boundary of which shall be the same as the boundary of the Part 77 Surfaces Map dated February, 2007, prepared by the Michigan Department of Transportation, Aeronautics Division and approved by the Michigan Aeronautics Commission as part of the Airport Approach Plan, pursuant to CFR Title 14; Part 77, Objects Affecting Navigable Air Spaces and more specifically Part 77.25, Civil Airport Image Surfaces of which the Part 77 Surfaces Map shall be incorporated by reference as part of the Official Zoning Map. A copy of the Part 77 Surfaces Map shall be kept on file at the Township Hall and available for review.

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ARTICLE XV
PUD - PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

Section 15.01 - Purpose

The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one (1) principal building on one (1) lot. These requirements would in certain developments have results that would less serve the public health, safety, and welfare than if a controlled degree of flexibility were allowed. A development may be of such size as to justify permitting certain specifically defined departures from the regulations of the zoning district. Permitting these uses can in certain cases increase convenience, be comparable with the overall character of the district, not be injurious to the adjoining properties, and ultimately result in higher quality development than would otherwise be created through conventional means.

This Planned Unit Development (PUD) district is intended to encourage the following:

- A. Preservation of open space and other sensitive lands through use of creative design that takes advantage of special features including geography, vegetative cover, topography, site size or shape for their best potential, and
- B. Incorporation of a variety of land uses including residential and commercial uses plus their accessory uses allowing a creative approach in the development of a specific site to meet anticipated residential and commercial demand.

It is a further intent of the PUD district to comply with the requirements of P.A. 110 of 2006, as amended, that requires qualified Michigan Townships to offer an Aopen space preservation@ pattern of residential land development as a zoning and land development option in all zoning districts where the minimum lot size is two (2) or fewer dwelling units per acre, or if the land is served by a public sewer system, three (3) or fewer dwelling units per acre.

Under the provisions of this section there are established two types of Planned Unit Development:

- A. PUD - Traditional
- B. PUD - Cluster Residential Development

Section 15.02 - Permitted Principal and Accessory Uses

In the “PUD” Planned Unit Development District, the following provisions, regulations and restrictions shall apply:

A. Permitted Principal Uses / Minimum Development Area

Uses permitted to be established in the PUD development shall be based on those uses permitted in the underlying zoning district except as indicated below. The minimum area required to establish a PUD in each district is provided below as well.

1. In the AG Agricultural and the AGLD Agricultural Low Density districts, a PUD - Traditional or PUD - Cluster Residential Development can be designated on a parcel of land having a minimum of at least 20 acres of land area provided such projects meet the purposes in Section 15.01. Only those land uses permitted in the underlying zoning districts shall be permitted to be included in the PUD.
2. In the AGMD Agricultural Medium Density district, a parcel of land having a minimum of at least 20 acres of land area can be designated as a PUD - Traditional or PUD - Cluster Residential Development provided such projects meet the purposes in Section 15.01. Only those land uses permitted in the underlying zoning district shall be permitted to be included in the PUD.
3. In the AS Almena Settlement and C-1, C-2, and C-3 Commercial districts, a parcel of land having a minimum of at least 10 acres of land area can be designated PUD - Traditional or PUD - Cluster Residential Development provided such projects meet the purposes in Section 15.01. Land uses from the underlying zoning districts shall be permitted to be included in the PUD. In addition, up to 50% of the developed land area of the PUD may be dedicated to one (1) or more of the permitted uses in the AGMD zoning district. These uses shall be integrated into a single development consistent with the intent provided in Section 15.01.

B. Permitted Accessory Uses

1. All accessory buildings and uses customarily allowed by the terms of the underlying zoning district.

C. Permitted Principal Special Uses

All special uses allowed by the applicable current zoning district shall be allowable within the PUD and approved pursuant to the approval process set forth in this Article.

Section 15.03 - General Provisions

- A. **Continuing Applicability of Information on Approved PUD Site Plans:** The location of all uses and buildings, all uses and mixtures thereof, all yards and transition strips, and all other information regarding uses of properties as shown on, or as part of, a site plan which is approved by the Township, shall have the full force and permanence of the Zoning Ordinance as though such site plan and supporting information were specifically set forth as requirements in the Zoning Ordinance. Such information shall be the continuing obligation of any subsequent interests in a “PUD” district, or parts thereof, and shall not be changed or altered except as approved through amendment or revision procedures as set forth in this Article. The approved site plan(s) and any conditions attached thereto shall control all subsequent planning or development. A parcel of land that has been approved as a “PUD” district shall not thereafter be developed or used except in accordance with the approved site plan and plats approved by the Township.

- B. **Commencement of Construction:** No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued until the requirements of this Article have been met, and approved as to conformance by the Township.

- C. **Applicability of Performance Bond or Security:** A suitable performance bond or other form of security may be required for all public and common site improvements and developments and, if phased, all phased developments on a per phase basis. Cost estimates to be used in setting bond amounts shall be based upon the findings regarding estimated cost as reported by the Township Engineer, Public Agency or PUD Engineer.

Section 15.04 - Pre-Application Conference - Disclosure of PUD Type - Submission of Application and Site Plan

- A. An applicant for a PUD District may request a pre-application conference with the Zoning Administrator prior to filing an application for developing a PUD District. The request shall be made to the Zoning Administrator who shall set a date for the conference. The Zoning Administrator shall invite other officials who might have an interest in the proposed development, or who might assist the Township in the review process.

- B. The purpose of the conference shall be to inform the Township and other officials of the type of PUD and concept of the proposed development, and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the Township and other agencies. The applicant is encouraged to present schematic plans, site data and other information that will explain the proposed development.

- C. Statements and presentations made in the conference shall not be legally binding commitments.

- D. Upon completion of the pre-application conference, the application and required site plan shall be filed by the applicant upon a date agreed to by the applicant and Zoning Administrator at the pre-application conference. The date shall provide adequate time for

the Zoning Administrator to complete a compliance review, prepare a written report for the Planning Commission, and schedule the Planning Commission meeting.

Section 15.05 - Site Plan Requirements

A site plan shall be submitted for approval for each phase of development. Site plans shall be submitted and reviewed in accordance with the provisions of Article XXII - Site Plan Review Procedures.

The Planning Commission may require the applicant to provide housing and commercial market analyses; traffic studies; environmental studies; facility, utility and service studies; and/or other information necessary for the Commission to properly and adequately analyze a “PUD” District as the basis for decision making.

To that end, an impact assessment shall be prepared by the applicant and submitted when required by the Planning Commission concurrently with the site plan. This document shall be prepared in narrative form, with such accompanying charts, graphs, maps and/or tables as may prove necessary. Topics to be addressed shall include community impacts, i.e., additional traffic likely to be generated per 24-hour period, directional distribution of trips generated by the proposed development, additional police and fire service needs to be anticipated and environmental impacts, i.e., soils to be found on the site, site topography, natural features of note that are located on the site and how each would be impacted by the proposed development.

Section 15.06 - Application and Review Procedure

- A. An application for a “PUD” district shall be made by all of the owner(s) of record of the subject parcel. The applicant shall provide evidence of full ownership of all land in a “PUD” or execution of a binding or conditional sales agreement, with proof of seller’s ownership.
- B. The application shall be filed with the office of the Zoning Administrator, who will check it for compliance with the terms and conditions of this Zoning Ordinance. Upon determination that the application is in full compliance the Zoning Administrator shall transmit the application and the site plan to the Township Planning Commission for approval or denial. It is recommended that the applicant discuss the submission date with the Zoning Administrator to ensure sufficient time for the Zoning Administrator to complete the review prior to the Planning Commission meeting of which the applicant desires the matter to be considered.
- C. The Township Planning Commission shall hold a public hearing on the application and site plan. In most circumstances the hearing will be held within 45 days of the filing date. The public hearing shall follow the same procedure as that required in Article XXVIII, Section 28.03.
- D. At the public hearing the applicant shall present evidence regarding adherence to all pertinent standards and requirements. To this end evidence and expert opinion shall be

submitted by the applicant in the form of maps, charts, reports, models and other materials, and/or in the form of testimony by experts who can clearly state the full nature and extent of the proposal. Materials to be presented at the hearing shall be submitted beforehand, to the extent possible, in a sufficient number of copies for review by each member of the Planning Commission and other Township officials. Materials submitted shall include the required site plan and any supplementary sources of information necessary to satisfy the requirements detailed in Section 15.03.

- E. The Planning Commission shall undertake a study of the application and site plan and shall submit a report of its recommendation to the Township Board within 60 days of receipt of the Zoning Administrator’s recommendation, unless an extension is agreed upon by the applicant and the Commission. This report shall contain the Planning Commission’s analysis of the application and site plan, findings regarding standards, suggested conditions of approval, if applicable, and its recommendations. Materials and information to be considered in this study and review process may include input from such agencies as the County Health Department, Road Commission and Drain Commissioner among other public agencies having a public interest in the PUD project development and such documents as the Township Master Plan.
- F. Upon receipt of the Planning Commission report, the Township Board shall approve, approve with conditions, deny, or table for future consideration, the application and site plan. Upon approval of the application by the Township Board, the Township Clerk shall so designate the property on the “Official Township Zoning Ordinance Map” indicating the Type of PUD and date of approval. Changes in the application or site plan recommended by the Township Board shall be referred to the Township Planning Commission for review and recommendation prior to the Township Board action thereon. The Township Board may attach conditions to its approval of a “PUD” proposal.
- G. If the application and site plan are approved by the Township Board, the approved application and plan shall be binding upon the written applicant and owner(s) of record or their assigned upon their heirs, successors, and assigns, unless changes are mutually agreed to by the Township Board and applicant and owner(s) of record or the assigned agent(s) or their heirs, successors and assigns.

Section 15.07 - Supplementary Development Standards and Regulations

The following requirements expand upon and are in addition to the requirements detailed in Article XXII - Site Plan Review Procedures:

A. Regulatory Flexibility.

- 1. Upon showing that an alternative standard will result in a higher quality development or increased protection of open space / natural resources the Planning Commission may grant specific modifications from the requirements in the Zoning Ordinance as a part of the approval process for a particular development.

2. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval by the Zoning Board of Appeals.
3. A table shall be provided on the site plan which specifically details all deviations from the established dimensional standards, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this Planned Unit Development article. This specification should include the Ordinance provisions, from which deviation is sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this Ordinance shall be considered.
4. An appeal of a Planned Unit Development decision may be heard by the Almena Township Zoning Board of Appeals, in accordance with the procedures in Section 604 of the Michigan Zoning Enabling Act (PA 110 of 2006, as amended).
5. In addition, an individual lot owner may seek a variance following final approval of the Planned Unit Development, provided such a variance does not involve alterations to open space areas or other common elements as shown on the approved Planned Unit Development site plan.

B. Density / Parallel Plan. To assist the Planning Commission in determining the number of lots, units, or square footage permitted in a PUD, the applicant shall submit a parallel plan for the development that is consistent with the requirements for a site plan in Section 22.07 and the maximum density standards for the underlying zoning district presented in Section 11.01, the Schedule of Regulations. The parallel plan will therefore show how the site could be reasonably developed under conventional zoning and subdivision standards within the underlying zoning district. The parallel plan should be drawn to contain the maximum number of lots allowable and reasonable per the standards and practical engineering limitations that would apply to the site in accordance with the current zoning designation.

The Planning Commission will review the parallel plan and determine the number of lots that could be feasibly constructed (based on site conditions, engineering, cost, development and density standards of the underlying zoning district, and similar factors) following the design. For example, parallel plans showing lots with dwellings on extremely steep slopes, in bodies of water, in areas with non-percable soils (such as wetlands) or in a right-of-way will have these lots rejected, as they are not reasonable. This number, as determined by the Planning Commission, will be the base number of dwelling units allowable for the Planned Unit Development project. Any Density Bonus (see Section 15.07.C) granted by the Township will be applied to this number.

C. **Density Bonus.** The number of units permitted in a PUD development as determined from the parallel plan may be increased at the discretion of the Planning Commission by including one (1) or more of the elements identified below.

1. Each element listed below is worth an additional, incremental bonus. The bonus for each element may range from 0% to 10% of the units identified on the parallel plan. The specific amount of the bonus shall be at the discretion of the Planning Commission depending on the degree to which they have addressed that element and the impact it has in contributing to the objectives sought to be achieved by the PUD. The maximum density increase any development may receive shall be 25% of the units identified on the parallel plan.

2. For those PUD developments eligible to receive a density bonus, the proposed development is required to meet or exceed one (1) or more of the requirements of this section of the Ordinance.
 - a. Inclusion of a variety of building types, quality architecture, durable materials and superior site design.
 - b. Providing frontage transition areas along all public roads that are at least 150 feet in depth with suitable landscaping.
 - c. Providing public amenities such as trails for non-motorized use, children's playgrounds, picnic facilities, or community centers.
 - d. Providing paths, trails, greenways, or other pedestrian and non-motorized transportation facilities, accessible to the public, and connected to or creating a network of trails throughout the community.
 - e. Cleanup of site contamination.
 - f. Storm water management on-site that relies upon manufactured natural systems (such as bio-swales, rain gardens, or installed wetlands) and preserves the quality and integrity of existing natural areas.
 - g. Other similar elements as determined by the Planning Commission.

D. **Dimensional Standards.** The purpose of this Section is to ensure that PUD developments are compatible with adjacent properties and the Township. Whenever possible, the development standards of this Ordinance and the requirements of the underlying zoning district shall be followed in the design of PUD developments. Modifications to these standards may be approved as part of a PUD Plan provided that such modifications are determined to be consistent with the purpose of this Article, are consistent with sound

planning and design, and are necessary for the preservation of significant features such as open space on site, or are otherwise necessary for the design of the development.

1. Building Height. The building height standards of the associated zoning district shall apply.
2. Setbacks. The Planning Commission shall determine if modified building setback and yard requirements are acceptable for a PUD based on sound planning and design principles and the protection of the public health, safety, and welfare. The following guidelines shall provide a benchmark for their review:
 - a. Front yard setback not less than 20 feet from the road right-of-way. Along the frontage of the perimeter public road, the setback from the road right-of-way shall be consistent with the existing streetscape or 100 feet, if there is no established setback among the surrounding properties.
 - b. Side yard setback not less than 15 feet between adjacent structures, measured from roof eave to roof eave or the otherwise closest projection from the house, except in instances where there is a shared wall between adjacent structures that is appropriately designed.
 - c. Rear yard setback not less than 20 feet.
 - d. There shall be a 30 foot buffer provided around the perimeter of the development. This shall not be counted as part of the lot or unit within the development, and setbacks for the lots or units adjacent to the buffer shall be measured from the edge of the buffer, which shall be the property line of the lot or unit.
 - e. Non-residential uses in a PUD shall not be located within 100 feet of a perimeter property line that abuts a residential zoning district.
3. Building Coverage. The building coverage standards of the associated zoning district shall apply.

E. Common Open Space Requirements.

1. A minimum of 20% of the total area of a PUD-Traditional project site shall be open space.
2. A minimum of 50% of the total area of a PUD-Cluster Residential Development shall be open space. In such a development, the number of units permitted to be

built within the development (see paragraphs B & C above) may be clustered within the 50% or less of the site is developed, provided that the majority of the total PUD area is protected as permanent open space by a permanent mechanism to the Township's satisfaction, such as a deed restriction, conservation easement, or similar means.

3. Open space areas set aside as part of a PUD development shall accomplish one (1) or more of the following objectives:
 - a. To provide common recreational area for use by the residents of the PUD, in cases where the development is expected to create a significant demand for common recreational area, which demand will not otherwise be met by the PUD as proposed.
 - b. To protect and preserve environmentally sensitive areas, such as floodplains, shore-lands, dunes, regulated and non-regulated wetlands, stream corridors, steeply-sloped areas, woodlands, or other sensitive areas which may exist on the development site and enhance the rural character of the area. The Township Board and Planning Commission may require that specific, unique natural amenities be included within the open space area for preservation purposes. Such areas shall be managed in a natural condition.
 - c. To provide open space buffer areas between the PUD and adjoining property so as to minimize adverse impacts of the PUD on adjoining property.
 - d. To provide open space along public road corridors so as to maintain a natural character along public roadways in rural portions of the Township.
4. Land dedicated as common open space is subject to the following requirements:
 - a. To the extent possible, open space areas shall be continuous throughout the development. Open space shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the development. Except when provided along waterways or trails and paths, open space shall not be established as thin strips but rather as larger land masses in order to encourage general community use rather than simply private use by adjacent property owners.
 - b. The majority of the total open space area within the development (minimum of 50% of the open space area) shall be located in one (1) contiguous area and shall be available for active or passive use by the residents of the development. No more than 50% of this area may be

water. The remaining portion of the open space requirement shall be divided into a minimum number of smaller areas.

- c. Land devoted to public or private street easements, right-of-ways or parking, and above-ground portion of a private community on-site waste water disposal system, or land within the boundaries of a lot or unit shall not be included in computing the area of common open space.
 - d. Access to common open space shall be provided from all areas of the PUD by means of public or private streets or pedestrian access ways.
 - e. Common open space areas should be accessible by pedestrians and non-motorized vehicles from all dwelling units by means of public or private streets, or by pedestrian access ways in easements that have a minimum width of 20 feet and an improved surface meeting specifications as approved by the Planning Commission or Township Board.
- 5. The area included within the 30-foot perimeter buffer (see paragraph D.2.d above) shall not be counted as open space and shall remain undeveloped.
 - 6. The site plan shall indicate the intended function of the open space, if applicable (i.e. passive use, playground, ball field, picnic area, trail, etc.). The Planning Commission shall have the discretion to require reasonable measures to control the impacts of the use of those spaces on adjacent properties.
 - 7. As a condition of PUD approval, and prior to the occupancy of any structure within the PUD (or within any phase of the PUD), the applicant shall be required to establish a property owners' association (or other similar organization acceptable to the Township) of which all residents or occupants of the PUD shall be required to become members through appropriate plat restrictions, covenants, and conditions. The property owners' association must be legally capable of assuming, and shall assume, the obligation to maintain the common open space as required by this Section.
 - 8. The Planning Commission and Township Board shall review the open space as a part of the site plan to ensure that it satisfies the intent of this section and shall have the discretion to require changes to the open space plan as a condition of approval.

F. External and Internal Circulation and Access

- 1. Access points to a “PUD” development shall be located no less than 330 feet apart when measured parallel to the adjoining roadway, to any other entryway, driveway or roadway.

2. Each lot or principal building shall have internal vehicular access from a public or private road.
3. As property is developed as a “PUD” Planned Unit Development District, a pathway system linking all principal units both with on-site amenities (e.g., recreation areas, shopping, places of employment) and with adjoining parcels (unless it is demonstrated to the Planning Commission that such a system would be inappropriate or unnecessary to the development). The pathway system shall be designed so as to be appropriate to non-motorized transport modes (e.g., bicycling, walking). The pathway shall be no less than four (4) feet in width and it shall be constructed of hard-surface paved materials suited to walking and to non-motorized vehicular use.
4. Standards of design and construction for both public and private roads shall be the current standards established by the Van Buren County Road Commission.
5. Public and private roads shall be designed and constructed according to established standards for public roads as established by the County Road Commission or as may be provided pursuant to Article XVII, Section 17.28.
For public roads, the escrow deposit required in Section X of the Van Buren County Road Development Policy must be deposited with the County prior to the beginning of infrastructure construction. The estimated construction cost used to calculate the escrow deposit must be submitted to the Township, including evidence of County approval of the cost estimate.
6. The layout of roads shall generally provide a continuous circuit of travel or permit such an extension in the future. Where proposed land is limited by natural barriers or use of the land, a cul-de-sac design may be approved provided that an easement or right-of-way is reserved extending from the cul-de-sac to the development boundary. If a road of an existing development terminates at the boundaries of the proposed development, the proposed road network shall connect. These requirements may be waived by the Township where natural barriers or other similar conditions exist that make such arrangements not feasible.
7. The configuration of buildings, driveways, and other improvements shall permit convenient and direct emergency vehicle access. A PUD development in excess of 50 dwelling units and/or 500 average daily vehicle trips shall, at the discretion of the Planning Commission, provide a minimum of two (2) points of ingress and egress.
8. A plan for the maintenance of the roads must be submitted in writing to the Township. The plan must state clearly whether the roads will be privately maintained or dedicated to the County. If the roads are to be private, they must meet the standards of Section 17.28. If the roads are to be public, it must include the timeline for dedicating the roads to Van Buren County.

G. Landscaping and Parking

1. The parking and loading requirements set forth in Article XVIII - Off-Street Parking, Loading herein, shall apply except that the number of spaces required may be reduced if approved by the Township Board, upon recommendation of the Planning Commission, and included as part of the site plan submitted. Such reduction shall be based upon specific and reasonable findings.
2. A landscaped screening strip, no less than 50 feet in width, shall be required within the 100-foot setback requirement between a free-standing physical structure containing a non-residential use and an adjacent residential district. The screening strip shall be located between the two uses and shall be landscaped with trees, shrubs and ground cover, and may include fences, walls and berms. The applicant may request and the Planning Commission may agree to waive this requirement in favor of the standard buffering requirement between non-residential uses and residential districts, as presented in Section 17.19 of the Zoning Ordinance.

H. Utilities and Sidewalks/Pathways

1. Each principal building shall be connected to private water and sanitary sewer systems or to on-site facilities approved by the County and/or State Health Officials and Township Board as a part of the Site Plan.
2. Maintenance of any and all approved common on-site utility systems shall be ensured by use of a deed restriction which shall provide for financial participation in maintenance costs by each owner or occupant of the PUD served by the system.
3. All PUD's shall be required to provide adequate fire protection as determined and approved by the appropriate local Fire Department and Fire Chief with jurisdiction in the portion of the Township where the proposed PUD is located. In all cases where an on-site system is proposed, detailed drawings, plans and/or other background materials as well as written approval from the appropriate County or State agencies shall be presented as part of the Site Plan submitted. Information regarding the system and access to the system shall be provided to the Township prior to occupancy and kept up to date to ensure protection of the residents.
4. Each site shall be provided with adequate surface and piped storm drainage. Open drainage courses and storm water retention ponds may be permitted as approved by the County Drain Commissioner.
5. Electrical, telephone, and cable television lines shall be placed underground. Surface mounted equipment for underground wires shall be shown on the Site Plan and shall be screened from view.

6. A system of sidewalks and paths connecting all principal buildings within a development may be appropriate and may be required by the Planning Commission based on the character of the development and the anticipated level of pedestrian traffic. Street lights may also be required or may only be required for portions of the development, such as parking lots or intersections. Financial support for their maintenance shall be ensured through deed restrictions providing for each owner or occupant participation in maintenance costs.

I. Legal Mechanisms to Ensure Facility and Open Space Maintenance

1. Legal instruments setting forth the manner of financing permanent maintenance of common areas, utilities and facilities shall be submitted to the Township Attorney for review before the Township Board approves a final site plan.
2. Where an association is to be used to maintain common areas, utilities and facilities, the developer shall file a declaration of covenants and restrictions that will govern the association a part of the Site Plan application documents. The provisions shall include, but shall not be limited to, the following:
 - a. The association shall be established as required by Michigan law.
 - b. Membership in the association shall be mandatory for each building unit buyer and for any successive buyer and shall be so specified in the covenants.
 - c. Restrictions shall be permanent.
 - d. The associations shall be made responsible for liability.
 - e. Building or unit owners shall pay their pro-rated share of the costs and this requirement shall be specified in the covenants. Assessments levied by the association shall become a lien on the individual properties.

J. Project Phasing

1. If the proposed development is to be constructed in phases, a narrative description of the phased process that describes all work to be done in each phase should be submitted to the Planning Commission when the Site Plan is submitted.
2. A phase shall not be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, adequate utility services, and open spaces and recreation facilities, but that which is needed to make each phase completely

functional and have all of the necessary common elements planned, designed and built when needed.

Section 15.08 - Standards For Review

The Planning Commission shall determine and shall provide evidence in its report to the Township Board to the effect that the application, site plan and supplementary informational materials submitted by the applicant meet the following standards:

- A. The proposed development shall conform to the Township Master Plan or conforms to a land use policy which, in the Planning Commission’s opinion, is a logical and acceptable change or modification in the adopted Township Master Plan.
- B. The proposed development shall conform to the intent and purpose of the Township Zoning Ordinance and its regulations and standards of a PUD District and other Township, County, State and Federal requirements.
- C. The proposed development shall be adequately served by public utilities, facilities and services such as: highways, roads, sidewalks, road lights, police and fire protection, storm drainage facilities, water and sanitary sewer facilities, refuse disposal; or that the persons, organizations or agencies responsible for the proposed development shall be able to properly provide or connect to such utilities, facilities and services with a Township or other public agency approved service when not provided by a public agency.
- D. Common open space, other common properties and facilities, individual properties, and all other elements of a “PUD” which provide open space are so planned that they will achieve a unified plan for all of its elements in appropriate locations, which are suitably planned, designed and related to each other, the site and surrounding uses of land and obviously designated for such use by residents.
- E. The applicant shall have made provision to ensure that public and common utilities, facilities and services shall be irrevocably committed through recorded deed restrictions for that purpose, including provisions for the financing of the construction, management, operation and maintenance of all public and common utilities, facilities and services included in the approved Site Plan and supporting documentation.
- F. Traffic to, from, and within the PUD shall be safe and convenient to the occupants and users of the project and the surrounding area. In applying this standard the Planning Commission shall consider, among other things, convenient routes for automotive and pedestrian traffic; relationship of the proposed project to main thoroughfares and road intersections; and the general character and intensity of the existing and potential land use development of the surrounding area.

- G. The mix of housing unit types and densities, and the mix of residential and non-residential uses shall be acceptable in terms of their interrelationships, convenience, privacy, compatibility, and similar common welfare measures.
- H. The Planning Commission shall determine, where applicable, that noise, odor, light, or other external effects which are connected with the proposed PUD, will not adversely affect adjacent and surrounding area lands, uses and activities.
- I. The proposed development shall create a minimum disturbance to natural features, land forms and the environment generally.
- J. Roads shall be compatible with the topography, be properly spaced, and be located and aligned in accordance with the intended function of each road. The PUD shall have adequate access to public roads. The plans shall provide for logical extensions of public roads and shall provide suitable road connections to adjacent parcels, where applicable.
- K. Pedestrian circulation shall be provided within the PUD and shall interconnect all PUD use areas where applicable. The pedestrian system shall provide for a logical extension of pedestrian ways outside the PUD and to the edges of the PUD where applicable, for future connections between the PUD and the future development of adjacent properties.

Section 15.09 - Amendments to Site Plans

Preliminary and final site plans may be amended in accordance with the process detailed in Article XXII -Site Plan Review Procedures, Section 22.10 and 22.11.

Section 15.10 - PUD Site Plans, Subdivision Plats and Condominium Subdivisions

The Township Board shall have the authority to deny or table an application for approval of a PUD Site Plan, Land Division (subdivision) Plat or Condominium Subdivision if, in its opinion and after a report thereon from the Planning Commission, such PUD Site Plan or Land Subdivision will result in premature development of the area involved, or will result in improper scheduling of various public improvements such as, but not limited to, roads, utilities, and schools.

Section 15.11 - Extension of Time Limits

Time limits set forth in Article XXII - Site Plan Review Procedures may be extended upon showing a good cause, and by written agreement between the applicant and the Planning Commission.

Section 15.12 - Performance Guarantees

Performance guarantees shall be provided in accordance with Article XXII, Section 22.16.

Section 15.13 - Violations

Violations shall be addressed in the manner provided in Article XXII, Section 22.17 - Site Plan Review Procedures.

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**ARTICLE XVI
CONDOMINIUM APPROVAL REQUIREMENTS**

Section 16.01 - Purpose and Requirements for Condominium Subdivision Approval

Pursuant to authority conferred by Section 141 of the Condominium Act, Act 59 of 1978, as amended, all condominium subdivision plans must be approved by the Planning Commission. In determining whether to approve a condominium subdivision plan, the Planning Commission shall consult with the Township Clerk, Township Supervisor, Township Attorney, Township Engineer, and Township Building Inspector regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act.

Section 16.02 - Initial Project Information

Concurrently with notice required to be given to the Township of Almena, pursuant to Section 71 of Public Act 59 of 1978, as amended (MCL 559.171), a person, firm, or corporation intending to develop a condominium project shall provide the following information with respect to the project:

- A. The name, address, and telephone number of:
 - 1. All persons, firms, or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
 - 2. All engineers, attorneys, architects, or registered land surveyors associated with the project.
- B. The developer or proprietor of the condominium project.
- C. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
- D. The acreage content of the land on which the condominium project will be developed.
- E. The purpose of the project (for example, residential, commercial, industrial, etc.).
- F. Approximate number of condominium units to be developed on the subject parcel.
- G. Whether or not a community water system is contemplated.
- H. Whether or not a community wastewater system is contemplated. (See: Township policy concerning operating default agreement.)

- I. A survey plan of the condominium subdivision.
- J. A regulated wetlands and floodplain plan, when appropriate.
- K. A site plan showing the location, size, shape, area, and width of all condominium units.
- L. A utility plan showing all sanitary sewer, water, and storm sewer lines and easements granted to the Township for installation, repair, and maintenance of all utilities. The plan shall include all necessary easements granted to Almena Township for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character (hereinafter collectively called "public structures") for the purpose of providing public utilities, including conveyance of sewage, water, and storm water run-off across, through, and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.
- M. A street construction, paving, and maintenance plan for all private streets within the proposed condominium subdivision (note: the Township development standards are the Van Buren County Road Commission standard).
- N. A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities.
- O. Streetlights and a perpetual maintenance plan (or request for special assessment district) for such streetlights.

Section 16.03 - Information to be Kept Current

All information shall be furnished to the Township Zoning Administrator and shall be kept updated until such time as a Certificate of Occupancy has been issued.

Section 16.04 - Site Plans - New Projects Master Deed, Engineering, and Inspections

Prior to recording of the Master Deed required by Section 72 of Public Act 59 of 1978, as amended (MCL 559.108), the condominium project shall undergo site plan review and approval pursuant to this ordinance. In addition, the Township shall require appropriate engineering plans and inspections prior to the issuance of any Certificates of Occupancy.

Section 16.05 - Site Plans - Expandable or Convertible Projects

Prior to expansion or conversion of a condominium project to additional land, the new phase of the project shall undergo site plan review and approval pursuant to this Ordinance.

Section 16.06 - Master Deed, Restrictive Covenants, and “As Built” Survey to be Furnished

The condominium project developer or proprietor shall furnish the Township Attorney with the following:

- A. one (1) copy of the recorded Master Deed,
- B. one (1) copy of all restrictive covenants, and
- C. two (2) copies of an "As Built Survey" prepared at the developers cost showing all changes/modifications from engineering plans/specifications made during installation of site infrastructure.

The "As Built Survey" shall be reviewed by the Township Engineer for compliance with the Township's Ordinances. Fees for this review shall be established by resolution of the Township Board.

Section 16.07 - Monuments Required - Site Condominium Projects

All condominium units which are building sites, mobile home sites, or recreational sites shall be marked with monuments as provided in this subsection.

Monuments shall be located in the ground and made according to the following requirements. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.

All monuments used shall be made of solid iron or steel bars at least one-half (2) inch in diameter and 36 inches long and completely encased in concrete at least four (4) inches in diameter.

Monuments shall be located in the ground at all angles in the boundaries of the condominium project: at the intersection lines of streets; at the intersection of the lines of streets with the boundaries of the condominium project; at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alley, at all angles of an intermediate traverse line; and at the intersection of all limited common elements and all common elements.

If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby with the precise location, thereof being clearly indicated on the plans and referenced to the true point.

Monuments placed on a bedrock outcropping will require a steel rod at least one-half (2) inch in diameter. It shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.

All required monuments shall be placed flush with the ground, where practicable.

All monument unit corners shall be placed in the field by iron or steel bars or iron pipes at least 18 inches long and one-half (2) inch in diameter, or other approved markers.

The Township Zoning Board of Appeals may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Township Clerk cash, or a certified check, or irrevocable bank letter of credit running to the Township, whichever the proprietor selects, in an amount not less than \$25.00 per monument and not less than \$100.00 in total. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

Section 16.08 - Monuments Required All Condominium Projects

All condominium projects shall be marked at their boundaries with monuments meeting the requirements of Section 16.07.

Section 16.09 - Compliance with Federal, State, and Local Law

All condominium projects shall comply with Federal and State Statutes and local ordinances, including but not limited to zoning and building codes.

Section 16.10 - State and County Approval

The developer or proprietor of the condominium project shall establish that appropriate state and county approvals have been received with regard to the potable water and waste water disposal systems for the proposed project.

Section 16.11 - Temporary Occupancy

The Township may allow occupancy of the condominium project before all improvements required by this Ordinance are installed provided that bond is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit without expense to the Township.

Section 16.12 - Amended Zoning Condominium Units

Zoning shall be subject to all requirements and standards of the applicable Zoning District, including minimum floor area requirements. The minimum building site shall be equivalent to the minimum lot size of the respective Zoning District.

There shall be maintained a minimum distance of 70 feet from the center of one (1) residential dwelling unit to the center of another residential dwelling unit. This 70 foot requirement shall be computed along the front building line, unless another separation distance has been approved by the Planning Commission as part of the site plan approval process of Article XXII - Site Plan Review Procedures.

In addition, building envelopes shall be depicted on the site plan to assure that the minimum 25 foot front yard, 35 foot rear yard, four (4) foot side yard (least side), and total of two (2) side yards of 14 feet can be met, unless other yard dimensions have been approved by the Planning

Commission as part of the site plan approval process of Article XXII - Site Plan Review Procedures.

Section 16.13 - Street and Road Requirements

All streets and roads in a condominium project whether to remain a private road or dedicated as a public road shall, at a minimum, conform to the standards and specifications promulgated by the Van Buren County Road Commission for a "Typical Residential Road" in single family residential subdivisions.

A plan for the maintenance of the roads must be submitted in writing to the Township. The plan must state clearly whether the roads will be privately maintained or dedicated to the County. If the roads are to be private, the standards of Section 17.28 must be met. If the roads are to be public, the maintenance plan must include the timeline for dedicating the roads to Van Buren County.

For public roads, the escrow deposit required in Section X of the Van Buren County Road Development Policy must be deposited with the County prior to the beginning of the infrastructure construction. The estimated construction cost used to calculate the escrow deposit must be submitted to the Township, including evidence of County Approval of the cost estimate.

Section 16.14 - Site Plan

After submission of the condominium plan and by-laws as part of the Master Deed, the proprietor shall furnish to the Township an electronic copy of the site plan or in lieu, a photographic hard copy, laminated photo-static copy or mylar sheet of at least 13 by 16 inches with an image not to exceed 10 1/2 by 14 inches.

Section 16.15 - Project Review Fee

Any plan submitted shall be accompanied with all applicable fees set forth in the Township schedule of fees.

Section 16.16 - Submission of Application for Consideration by Planning Commission

The initial information required to be submitted shall be submitted at least 60 days prior to consideration by the Township Planning Commission.

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**ARTICLE XVII
GENERAL PROVISIONS**

Section 17.01 - Conflicting Regulations; Imposition of Most Stringent Regulations

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or Ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or Ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or Ordinance shall govern.

Section 17.02 - Essential Services Allowable In All Districts

Essential services serving the Township of Almena shall be permitted as authorized and regulated by law and other ordinances of the Township of Almena.

Section 17.03 - Voting Places Allowed in All Districts

The provisions of this Ordinance shall not be so construed as to interfere with temporary use of any public property as a voting place in connection with a public election.

Section 17.04 - Exception to Height Limits for Towers, Chimney Etc.

The height limitations of Article XI - Schedule of District Regulations shall not apply to towers and structures such as chimneys, church spires, flag poles, public monuments, roof-mounted wind turbines, wireless transmission towers, and silos, elevators, and related agricultural structures provided, however, the Zoning Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a special use, except as provided in the AP Airport Overlay Zoning District.

The Zoning Board of Appeals may permit a building exceeding the maximum height allowed pursuant to Article XI - Schedule of District Regulations provided the front, sides and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed. Towers and structures such as chimneys, church spires, flag poles, public monuments, roof-mounted wind turbines, wireless transmission towers, and silos, elevators, and related agricultural structures shall be located no closer to the property lines than one (1) times the height of the tower measured from the base of said tower to the nearest point on the property line.

Section 17.05 - Nonconforming Lots of Record Created by Adoption of Ordinance No. 100

Any existing lot legally recorded as of the effective date of the adoption of Ordinance No. 100 on October 23, 2009 may be used for any principal use permitted, other than the special uses for which special lot area requirements are specified in this Ordinance, in the district in which such lot is located whether or not such lot complies with the lot area requirements of this Ordinance. Such use may be made provided that all requirements other than lot area requirements prescribed in this Ordinance are complied with, and provided that no more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this Ordinance for required lot area for each dwelling unit. (See: Section 25.07)

Section 17.06 - Lots Adjoining Alleys

In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements of this Ordinance, one-half (2) the width of such alley abutting the lot shall be considered as part of such lot.

Section 17.07 - Yard Regulations May Be Varied by the Zoning Board of Appeals

When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified as determined by the Zoning Board of Appeals, or pursuant to Article XXVII, Section 27.07.

Section 17.08 - Porch Extension into Front Yard

An open, not enclosed and uncovered porch or paved terrace may project into the required front yard (into the minimum front yard setback) for a distance not exceeding 10 feet, but this shall not be interpreted to include or permit fixed canopies.

Section 17.09 - Projections into Yards

Architectural features, not including vertical projections, may extend or project into a required side yard (into the minimum side yard setback) not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front yard or rear yard (into the minimum setback) not more than three (3) feet.

Section 17.10 - Access Through Yards

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement serving a like function, and not in excess of nine (9) inches above the grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure, and shall be permitted in any required yard.

Section 17.11 – Waterfront and Wetland Setback Regulations

A. Purpose & Intent.

It is the intent of this section to establish natural buffers along regulated wetlands and water frontage in Almena Township in order to prevent impairment and/or destruction of the natural features of the Township. These natural features include a prominent system of streams and wetlands that form the headwaters of the Paw Paw River. There are also a number of small inland lakes in the Township.

Experience has shown that in the absence of regulation, development will encroach on these features leading to impairment and/or destruction, which is contrary to the public health, safety, and welfare of the community. These areas contribute to plant and animal species diversity by providing habitat areas, they absorb floodwaters and protect

surrounding lands from storm surges, they filter sediment and pollutants out of storm water before entering the ground and surface water, and they are attractive areas for everyone to enjoy.

Development in these areas may also be under the jurisdiction of the Michigan Department of Environmental Quality (MDEQ) or other similar State and County agencies. Documentation of compliance with their requirements may be required prior to the issuance of a building permit. Similarly, issuance of a building permit by the Township shall not be construed as establishing compliance with the provisions of any State or County agency, and such action shall not create liability on the part of Almena Township, any official or employee thereof, or the MDEQ or other State or County agency for any damage to any structure that may result from locating near natural features.

B. Definitions.

1. Ordinary high water mark -- the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present. (Section 324.30101 of Public Act 451 of 1994, as amended.)
2. Shoreline -- that area along the waterfront where land and water meet, established at the ordinary high water mark along water courses and on water bodies.
3. Regulated wetland -- a wetland area that satisfies the size and location requirements to qualify as a wetland, according to the definition in Section 324.30301 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.
4. Waterfront lot -- any lot, building site or parcel which abuts any body of water, including, but not limited to a lake, an inland lake, stream, river, or creek.
5. Wetland -- land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

- C. Setback from shoreline or edge of wetland.** All waterfront lots or lots containing regulated wetlands shall maintain a minimum setback for any permanent structure from the ordinary high water mark and/or delineated wetland boundary as follows, which may be in excess of the minimum requirements of this Ordinance. Any person proposing to erect, install, move, or enlarge a permanent structure on a waterfront lot or lot containing a

regulated wetland is required to satisfy these minimum standards unless a greater setback is otherwise required elsewhere in this Ordinance:

1. 50 feet from the ordinary high water mark of an inland lake, river, or stream.
Revised 02-08-2017
3. 50 feet from the boundary or edge of a regulated wetland area, as delineated on a professionally prepared survey completed by a certified professional submitted to the Township and reviewed by Township staff, Michigan DEQ, and/or other professionals, as required. **Revised 02-08-2017**
3. Any other areas or setbacks as prescribed by MDEQ (as in Public Act 451 of 1994, as amended).

D. Agricultural exemption. Permitted agricultural uses (except building construction) shall be exempt from the standards of this Section 17.11 provided they adhere to the guidelines of the MDA, MDEQ, and other applicable State and County agencies.

E. Natural vegetative strip. Within the required setback from a body of water or regulated wetland, a natural vegetation strip shall be maintained in its natural vegetative state, except for the clearing of dead or invasive plants. This restriction will help maintain a root and vegetative barrier to keep soil particles and nutrients from entering the water bodies and wetlands, while also helping to minimize water runoff.

1. Within this strip, a space of no greater than 10 feet in width may be selectively trimmed and pruned to allow for the placement of walkways, and /or for a view of the water body, with the approval of the Zoning Administrator or Planning Commission.
 - a. Any walkway constructed inside the strip shall be on the upland side and may be oriented perpendicular or parallel to the water line.
 - b. A maximum of 20% of the total vegetative strip area may be cleared for this purpose.
 - c. Because the intent of the native protective strip is water quality protection, porous materials such as wood chips or gravel shall be used for any trail construction.
 - d. Additional clearing exceeding the 20% maximum stated above may be permitted with the approval of the Zoning Administrator or Planning Commission provided the items cleared are trees only and do not include any additional groundcover.

- e. All clearing shall be done by hand or hand-operated implements. Tilling and heavy machinery shall be prohibited.
2. The Zoning Administrator may allow limited clearing of the vegetation over and above this purpose only when required for construction of a permitted building or structure elsewhere on the site, provided that the land cleared is returned to a vegetative state, which is approximately the same quality and extent as that which existed prior to clearing.
3. Planting of native species in the required natural vegetative strip is encouraged, especially where exposed soils and steep slopes exist. A list of approved native species may be obtained from the Township. Invasive or destructive plant species (i.e. Eurasian milfoil, English ivy) shall not be permitted.
4. The use of chemical pesticides and phosphorous based fertilizers shall be prohibited within the natural vegetative strip.

F. Permitted accessory uses and construction within required waterfront and wetland setback.

1. Accessory structures less than 200 square feet in size shall be exempt from the requirements of this section of the Ordinance.
2. Accessory structures 200 square feet in size and greater shall be required to satisfy all of the setback requirements as set forth in this section of the Ordinance for other permanent structures.
3. Best management practices shall be employed so as to minimize disturbance of the natural terrain and vegetation during construction on waterfront lots. After construction, the lot, particularly within the wetland and waterfront setback area, should be restored to its prior conditions to the extent possible.
4. Accessory structures shall be subject to the policies and regulations of the MDEQ and other State and County agencies as well as the other requirements of this Ordinance.

G. More restrictive standards govern. Regulations imposed in other areas of this Zoning Ordinance shall govern if such restrictions or regulations impose a higher standard or requirement. Likewise, if other federal, state, county or local standards are more restrictive, the more restrictive regulation will govern.

Section 17.12 - Regulations for Accessory Use Structures and Buildings

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

- A. Attached accessory structures – those structurally attached to the principal structure – are subject to, and must conform to, all regulations of this Ordinance applicable to the principal structure.
- B. Detached accessory structures shall satisfy the required setbacks for principal structures in the zoning district in which it is located.
- C. The maximum size of an accessory structure shall be determined as follows:
 - 1. For lots, units, or parcels less than two (2) acres in size, the ground floor area of the accessory structure shall not exceed the ground floor area of the principal structure on site.
 - 2. For lots, units, or parcels two (2) acres in size or more, the ground floor area of the accessory structure, in addition to the area of all other structures and impervious surfaces, shall not exceed the percentage lot area coverage limit for the zoning district in which the property is located, as stated in Section 11.01, the Schedule of Regulations.
 - 3. Accessory use structures used for farming operations and/or housing livestock or other animals shall be exempt from these size regulations.
- D. No detached accessory building shall be located closer than 10 feet to any main building nor shall it be located closer than 10 feet to any side or rear lot line.
- E. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than one (1) foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.
- F. The maximum height of an accessory structure shall not exceed the maximum height allowable for the principal use structure in the zoning district where the structure is located.
- G. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in rear of such corner lot. In no instance shall an accessory building be located nearer than 10 feet to a street right-of-way line.

Section 17.13 - Storage of Unoccupied Trailer Coaches, Motor Homes and Recreational Vehicles

All unoccupied trailer coaches, motor homes, and/or recreation vehicles shall be stored only within the confines of the rear or side yard, and shall further respect the requirements of this Section applicable to Accessory Buildings, specifically setback distances from principal

structures, lot lines, and easements. All trailer coaches, motor homes, and/or recreation vehicles parked or stored shall not be connected to sanitary facilities and shall not be occupied.

Section 17.14 - Temporary Construction Offices and Storage Facilities Permitted

Trailers, storage containers, and semi-trailers may be used as temporary offices and/or tool/supply storage facilities on construction or building sites in any zoning district while the building permit issued by the Building Inspector remains valid.

Section 17.15 - Exterior Lighting

- A. All outdoor lighting in all zoning districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent agricultural / residential districts or adjacent residences.
 - 1. Site and area lighting shall be designed such that light levels do not exceed 0.1 foot-candles at any point along the perimeter of the property or along road right-of-way lines.
 - 2. Pole-mounted lighting with a pole height of 15 feet or less shall not exceed 175 watts per lamp regardless of lamp type. The lamp shall be so shaded, shielded, or directed so as to not create glare onto adjacent agricultural / residential properties or uses or onto adjacent rights of way.
 - 3. Pole-mounted lighting up to 25 feet in height shall be a cut-off fixture (mounted and shielded such that all light is directed downward and no light is emitted above a horizontal plane extending out from the lowest point of the fixture) with a maximum of 400 watts per lamp. The lamp shall be so shaded, shielded, or directed so as to not create glare onto adjacent agricultural / residential properties or uses or onto adjacent rights of way.
 - 4. Wall-mounted lighting fixtures shall be full cut-off fixtures and shall not exceed 175 watts per lamp regardless of lamp type and shall not exceed 20 foot mounting height. Typical residential / agricultural light fixtures on residential and agricultural buildings and associated accessory buildings, including security lights, shall be exempt from these requirements.

- B. Lighting in non-residential districts used for external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property. The direct light source shall not be visible from streets or adjoining property.

1. The illumination of building exteriors shall not exceed 20 foot-candles. Light fixtures used for the sole purpose of illuminating a building façade may be up to 400 watts per lamp with a mounting height of up to 15 feet. Light generated from said fixtures shall be appropriately shielded so that no light is emitted beyond the façade.
- C. Landscape light fixtures, including ground lighting for signs, flag poles, and statues, shall not exceed 175 watts per lamp and the source of the light shall not be visible from adjacent properties or the right of way.
- D. All illumination of signs and any other outdoor feature shall not be of a flashing, moving, blinking, rotating, fluttering, or other intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
- E. The following light fixtures and situations shall be exempt from the requirements of this Section 17.15:
1. Lighting required for a public good or public agency in order to satisfy regulatory standards (i.e. traffic control lights, tower lights).
 2. Lighting necessary by fire, police, rescue, or other emergency personnel for temporary emergency situations.
 3. Lighting required for construction on a temporary basis.
 4. Temporary lighting for holidays, limited to a maximum of 30 days.
 5. Unique situations such as stadiums and monuments. Lighting shall be installed to shield the lamp(s) from direct view to the greatest extent possible and to minimize upward lighting and light trespass.
- F. For uses requiring site plan review, the proposed location and description of all outdoor light fixtures shall be provided with the site plan to document compliance with the requirements of this section. A photometric plan demonstrating that light will not trespass onto adjacent properties will also be required.
- G. For uses requiring site plan review, lighting shall be reduced during non-operational building hours, limited to those necessary for security purposes. The lighting plan submitted for Township review shall note when this will occur and to what level it will occur.
- H. All lighting established prior to and existing as of the adoption of this Ordinance shall be so arranged as to avoid glare or direct illumination on any portion of any adjacent highway or onto any adjacent premises.

Section 17.16 - Residential Entranceway

In the AG, AGLD and AGMD Districts, so called entranceway structures including, but not limited to: walls, columns, and gates marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 17.17 Corner Visual Clearance, provided that such entranceway structures shall comply with all codes of the Township and shall be approved by the Zoning Administrator.

Section 17.17 - Corner Visual Clearance

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two (2) feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection.

Section 17.18 - Off-street Parking and Loading Berth Visual Obstruction Walls and Barriers

- A. For those districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to an agricultural / residential district an obscuring wall as required below (except as otherwise required by Article XVIII, Section 18.10).

USE	REQUIREMENTS
Off-street parking area	4' - 6" high wall
C Commercial District	4' - 6" high wall
I Industrial District open storage areas, loading or unloading areas, service areas.	4' - 6" high wall or fence (Height shall be that which will provide effective screening). (See: Article X, Section 10.05 and Article XVIII, Section 18.11)
Auto wash, drive-in restaurants	6' - 0" high wall
Hospital - Ambulance & delivery areas	6' - 0" high wall
Utility buildings, stations and/or substations	6' - 0" high wall

- B. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting agricultural / residential districts. Upon review of the site plan, the Planning Commission may approve an alternate location for the wall or may waive the wall requirement if in specific cases it would not serve the purpose of screening the

intended area effectively. Required walls may, upon approval of the Planning Commission be located on the opposite side of an alley right-of-way from a non-residential zone that abuts an agricultural / residential zone when mutually agreeable by affected property owners.

- C. Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance and except such openings as may be approved by the Zoning Administrator. All walls herein required shall be constructed of materials approved by the Zoning Administrator to be durable, weather resistant, rust proof and easily maintained.
- D. Obscuring walls may be constructed with openings which do not in any square section (height and width) exceed 20% of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the Zoning Administrator.
- E. The requirement for an obscuring wall between off-street parking areas, outdoor storage areas and any abutting agricultural / residential district shall not be required when such areas are located more than 200 feet distant from such abutting agricultural / residential districts.
- F. The Zoning Board of Appeals may waive or modify the foregoing requirements when cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than four feet - six inches (4' - 6") in height.
- G. In consideration of request to waive wall requirements between non-residential and agricultural / residential districts, the Zoning Board of Appeals shall refer the request to the Planning Commission for a determination as to whether or not the agricultural / residential district is considered to be an area in transition and will become non-residential in the future.
- H. In such cases where the Planning Commission determines the agricultural / residential district to be a future non-residential area, the Board may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted, provided that the Planning Commission shall make a determination as herein before described, for each subsequent waiver prior to the granting of such a waiver by the Board.

Section 17.19 - Fences

- A. Fences on all lots of record in all districts which enclose property and/or are within a required side or rear yard, shall not exceed eight (8) 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 primary structure or the required minimum front yard, whichever is greater, unless otherwise modified in this section or by the Planning Commission. Fences less than four (4) feet in height are permitted in the front yard between the front building line of the property and the front property line.
- B. The Planning Commission may require up to an eight (8) foot fence for commercial or industrial uses in the rear and/or side yards for screening purposes.
- C. Fences that contain barbed wire, electric current, or charge of electricity shall be permitted in any zoning district for agricultural purposes such as keeping in animals and livestock, separating fields, or protecting crops and gardens. Such fences shall otherwise be prohibited in the WR – Waterfront Residential district. These fences may be permitted in the C and I districts for safety and security purposes and shall be required to be located in a side or rear yard and at the top of a six foot (6') fence. These elements may exceed the height limit for the fence as stated in this section.
- D. Livestock raised in the Township shall be enclosed by a fence.
- E. Fences which enclose public or institutional parks, playgrounds, or public landscaped 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 25% of their total area.
- F. The Planning Commission may modify the fence standards provided herein during the review of special uses to ensure adequate screening and security is provided for the particular use and the health, safety, and welfare of the community.

Section 17.20 - Frontage on a Private or Public Street or Road Required for all Parcels

No parcel of land shall be divided, subdivided, or platted nor zoning lot used for any purpose allowed by the terms of the Ordinance unless said lot abuts a public or private street or road unless otherwise provided for in this Ordinance.

Section 17.21 - Minimum Dwelling Unit Size

- A. The minimum size of all single-family dwelling units shall be no less than 1,000 square feet of floor area per dwelling unit in the AG and AGLD districts and no less than 800 square feet of floor area per dwelling unit in the AGMD, WR, AS, and C districts, determined from the original foundation measurements without additions when located in any agricultural / residential zoning district. Multi-family dwelling units located in a

multi-family zoning district shall contain a minimum of 800 square feet provided, however, that in the case of efficiency units without a separate bedroom within multiple family dwellings the minimum floor area shall be 800 square feet per dwelling unit.

- B. After the date of adoption of this Ordinance amendment, all residential dwelling units shall have a minimum building width of 24 feet in width fronting on a public or private street as required by Section 17.20 of this Ordinance. The minimum width dimension of 24 feet shall continue perpendicular to the side of the building no less than 50% of the total dwelling side dimension.

Section 17.22 - Location of Mobile Homes (Single-Wide) in Approved Mobile Home Parks.

All mobile homes outside of the “AGMD” Agricultural Medium Density District shall be of a “double wide” construction. Location of all “single wide” mobile homes shall be limited to the AGMD Agricultural Medium Density District in Mobile Home Parks approved and certified by the State of Michigan, Mobile Home Park Commission.

Section 17.23 - Requirements for Manufactured/Mobile Dwellings Located Outside of Mobile Home Parks

All manufactured/mobile dwelling units located outside of a mobile home park shall comply with the following requirements. (Portions of Section 17.24 and 17.25 may also apply.):

- A. All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half (7 ½) feet; or if a manufactured/mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as from time to time may be amended, and the requirements of the State of Michigan Construction Code.
- B. There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings meeting the requirements of the Michigan Construction Code. The foundation shall have a minimum depth of 42 inches below grade.
- C. All dwellings without basements shall provide a crawl space below the entire floor of the dwelling not less than 42 inches in depth, with a vapor barrier consisting of two (2) inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space.
- D. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the Michigan Residential (Construction) Code, if a manufactured/mobile dwelling, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled Mobile Home Construction & Safety Standards and/or the Michigan Residential (Construction) Code.

- E. The wheels, pulling mechanism, and tongue, if detachable, of any home transported for final assembly shall be removed after placement on a foundation, meeting the requirements of the Michigan Residential (Construction) Code, or slab with footings.
- F. All dwellings shall be connected to an on-site water and/or sewer system approved by the County Health Department.
- G. All dwellings shall provide steps or porch areas, permanently attached to the foundation of the dwelling where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two (2) points of ingress and egress.
- H. All additions to dwellings shall meet all the requirements of this Ordinance.

Section 17.24 - Residential Exterior Appearances Compatibility and Aesthetic Compatibility of Design (including Mobile and Manufactured Homes outside of Mobile Home Parks).

- A. All residential dwellings here after constructed in the Township shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, except gable ends, or alternatively with window sills or roof drainage systems, concentrating roof drainage at collection points along sides of the dwelling. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals.
- B. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located within 500 feet of the subject dwelling or the nearest dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- C. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile or modular home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile or modular homes set forth in this section. Persons applying for a permit to place a mobile or modular home in Almena, Township must present a copy of the manufacturer's title to the Building Inspector to demonstrate the size and year of the pre-manufactured home before a permit will be issued.
- D. All manufactured, mobile or modular homes, shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled "Mobile Homes Construction & Safety Standards@

effective June 15, 1976, as amended and applicable requirements of the Michigan Construction Code. (See also Section 17.23 for standards for manufactures or mobile homes outside manufactured home parks.)

- E. All mobile or modular homes must be inspected and/or approved by the Building Inspector.
- F. Every dwelling shall have storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling which storage area shall be equal to less than 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
- G. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable township building code provisions and requirements, a Health Department permit has been obtained for construction of a sewage disposal system and a well, or test well and submission of a well log, if not connected to a Township water supply system, that sufficient potable water is obtainable from the well for the use of the proposed building.
- H. No mobile or modular home may be used for any commercial or industrial purposes or stored either transiently or permanently. Use of mobile or modular housing agricultural migrant housing when approved by the Michigan Department of Agriculture shall be permitted in the AG and AGLD Zoning Districts. This section does not limit the parking of travel trailers built for recreational purposes that are self-contained and can be pulled down the highway without a special permit.
- I. Mobile or modular homes which do not conform to the standards of Section 17.21 and 17.23 of this Ordinance shall not be used for dwelling purposes within the Township unless located within a mobile home park or unless used for temporary residence purposes as hereinafter provided. A Special Use permit may be secured from the Planning Commission to use a mobile home as a temporary residence for a period not to exceed one (1) year provided that the ability and intent to erect a house on the premises are shown; provided that the mobile home is located upon premises having running water and sewage facilities; and upon expiration of the one (1) year period the mobile home is removed. The Planning Commission may renew the permit for an additional period of one (1) year upon sufficient showing that the house construction could not be completed within said one (1) year period but has substantially progressed during said period. Said Commission may require a performance bond conditioned upon the removal of the mobile home from the premises within the time limited in an amount satisfactory to said Commission.
- J. All single family dwellings (with the exception of single wide Mobile Homes allowed in the AGMD District, in State licensed mobile home parks) shall have a minimum width as

required by Section 17.21.B and a double pitched roof of not less than four (4) feet of rise for each 12 feet of run. The roof shall be covered by asphalt, cedar shake, slate shingles, or standing seam metal.

- K. The foregoing regulations are not intended to prohibit architectural creativity or other unique home designs.

Section 17.25 - Mobile Home as an Accessory Use for the Aged and Infirm

Mobile Homes shall be permitted as a temporary special use by the Planning Commission on lots and parcels upon which a single family dwelling is located for the purpose of housing the aged, infirmed or “care giver” relatives of the family occupying the principal single family dwelling located on the same lot or parcel providing the following conditions are met:

- A. The lot has a principal single-family dwelling located upon it.
- B. The lot is a legal lot of record owned by either the aged and infirm person for whom care is being given or owned by the “care giver” relative.
- C. The occupants of both the principal single family dwelling and the mobile home have a direct (by blood, marriage or adoption) relationship or legally established guardianship.
- D. The occupants have a need as determined by the Planning Commission, evidenced by a physician's certification prescribing the need of a full-time or part-time care giver.
- E. Mobile homes used for this purpose shall be single wide units only and shall be limited to only one (1) per single family residential parcel.
- F. Mobile homes used for this purpose shall have immediate and unlimited access to all facilities located in the principal dwelling for the maintenance of proper health and sanitation, including potable water and sanitary disposal facilities for solid and liquid wastes.
- G. All accessory mobile homes shall be located within the appropriate setback lines for the yard in which they are located, except that no accessory mobile home shall be in a front yard of a principal dwelling.
- H. The Township Building Inspector shall conduct an annual inspection of the premises. If the need remains as specified in the terms of the Special Land Use Permit, the permits shall be renewed for a period not to exceed one (1) year.
- I. That should the aged and infirm relative cease to occupy either the principal single family house or the mobile home, such mobile home shall be removed within 90 days from the parcel. Further, neither residence shall be occupied by other than those persons approved in paragraph C, above so long as both residences are on the parcel.

Sec. 17.26. Wind Energy Systems.

A. On-Site Use Wind Energy Systems and Anemometer Tower.

An On-Site Use Wind Energy System is an accessory use which shall meet the following standards:

1. Designed to primarily serve the needs of a home, farm, or small business.
2. Shall have a tower height, including the blade, of 66 feet or less, measured to the top of the blade in its vertical position.
3. *Property Setback:* The distance between an On-Site Use Wind Energy System and the owner's property lines shall be equal to 150% of the height of the Wind Energy System tower including the top of the blade in its vertical position. The distance between an Anemometer Tower and the owner's property lines shall be equal to 150% of the height of the tower. No part of the Wind Energy System structure, including guy wire anchors, may extend closer than 10 feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback.
4. *Minimum Lot Size:* The minimum lot size for a property to be eligible to have an On-Site Use Wind Energy System shall be two (2) acres.
5. *Number of Towers:* No more than two (2) towers satisfying the requirements of this section (17.26.A) of the Ordinance may be located on a property at any one time.
6. *Sound Pressure Level:* On-Site Use Wind Energy Systems shall not exceed 55 dB(A) at the property line closest to the Wind Energy System. This sound pressure level may be exceeded during short term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
7. *Construction Codes, Towers, & Interconnection Standards:* On-Site Use Wind Energy Systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-Site Use 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 other applicable local and state regulations. An interconnected On-Site Use Wind Energy System shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

8. *Safety:* An On-Site Use Wind Energy System shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet (6') above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a Wind Energy System employing a horizontal axis rotor.

B. Utility Grid Wind Energy System, On-Site Use Wind Energy System Over 66 Feet Tall, and Anemometer Towers Over 66 Feet Tall.

A Utility Grid Wind Energy System, On-Site Use Wind Energy System over 66 feet high, and Anemometer Towers over 66 feet high are a special use and shall meet the following standards in addition to the general special use standards (Article IV of this ordinance):

1. *Property Setback:*
 - a. The required Anemometer Tower setback shall be the greater distance of the following:
 - i. The setback from property lines of the respective zoning district;
 - ii. The setback from the road right-of-way; or
 - iii. A distance equal to 150% of the height of the tower from property lines or from the lease unit boundary, whichever is less.
 - b. The required Utility Grid and On-Site Use Wind Energy System setback shall be the greater distance the following:
 - i. The setback from property lines of the respective zoning district;
 - ii. The setback from the road right-of-way; or
 - iii. A distance equal to 150% of the height of the tower including the top of the blade in its vertical position from property lines or from the lease unit boundary, whichever is less.
 - c. An Operations and Maintenance Office building, a sub-station, or ancillary equipment shall comply with any property setback requirement of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.
2. *Minimum Lot Size.* The minimum lot size for a property to be eligible to have an Utility Grid or On-Site Use Wind Energy System taller than 66 feet shall be two (2) acres.

3. *Sound Pressure Level:* The sound pressure level shall not exceed 55 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three (3) minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
4. *Safety:* 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.
5. *Post-Construction Permits, Construction Codes, Towers, and Interconnection Standards:* Shall comply with all applicable state construction and electrical codes and local building permit requirements.
6. *Pre-Application Permits:*
 - a. *Utility Infrastructure:* Shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, M.C.L. 259.431 *et seq.*), the Michigan Tall Structures Act (Public Act 259 of 1959 as amended, M.C.L. 259.481 *et seq.*), and other applicable local and state 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.
 - b. *Environment:*
 - i. The site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in the Environmental Analysis.
 - ii. Comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, M.C.L. 324.101 *et seq.*) including but not limited to:

- (a). Part 31 Water Resources Protection (M.C.L. 324.3101 *et seq.*),
- (b). Part 91 Soil Erosion and Sedimentation Control (M.C.L. 324.9101 *et seq.*),
- (c). Part 301 Inland Lakes and Streams (M.C.L. 324.30101 *et seq.*),
- (d). Part 303 Wetlands (M.C.L. 324.30301 *et seq.*),

- (e). Part 323 Shoreland Protection and Management (M.C.L. 324.32301 *et seq.*),
- (f). Part 325 Great Lakes Submerged Lands (M.C.L. 324.32501 *et seq.*), and
- (g). Part 353 Sand Dunes Protection and Management (M.C.L. 324.35301 *et seq.*).

as shown by having obtained each respective permit with requirements and limitations of those permits reflected on the site plan.

- 7. *Performance Security:* A Performance Security shall be provided for the applicant making repairs to public roads damaged by the construction of the Wind Energy System.
- 8. *Utilities:* Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All aboveground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published standards to prevent avian mortality.
- 9. The following standards apply only to Utility Grid Wind Energy Systems:
 - a. *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 part 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 Almena Township Master Plan.

- b. *Avian and Wildlife Impact:* Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife, as identified in the Avian and Wildlife Impact analysis.
- c. *Shadow Flicker:* Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker, as identified in the Shadow Flicker Impact Analysis.
- d. *Decommissioning:* A Planning Commission approved decommissioning plan shall be provided indicating 1) the anticipated life of the project, 2) the estimated decommissioning costs net of salvage value in current dollars, 3) the method of ensuring that funds will be available for decommissioning and restoration, and 4) the anticipated manner in which the project will be decommissioned and the site restored.
- e. *Complaint Resolution:* A Planning Commission approved process to resolve complaints from nearby residents concerning the construction or operation of the project shall be established.
- f. *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 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.

C. Site Plans for Anemometer Tower, Utility Grid Wind Energy System, and On-Site Use Wind Energy System.

In addition to the requirements for a site plan found in Article XXII of this Ordinance, site plans and supporting documents for Anemometer Tower, Utility Grid Wind Energy System, and On-Site Use Wind Energy Systems which are over 66 feet high shall include the following additional information:

- 1. Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.
- 2. Proof of the applicant's public liability insurance for the project.

3. A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the Anemometer Tower and/or Utility Grid Wind Energy System; legal description of the property(ies), Lease Unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the Lease Unit Boundary.
4. The phases or parts of construction, with a construction schedule.
5. The project area boundaries.
6. The location, height, and dimensions of all existing and proposed structures and fencing.
7. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.
8. All new infrastructures above ground related to the project.
9. A copy of Manufacturers' Material Safety Data Sheet(s) which 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.
10. For Utility Grid Wind Energy Systems only:
 - a. A copy of a noise modeling and analysis report and the site plan shall show locations of equipment identified as a source of noise which is placed, based on the analysis, so that the Wind Energy System will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC (International Electro-technical Commission) 61400 and ISO (International Organization for Standardization) 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 Almena Township within 60 days of the commercial operation of the project.
 - b. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four (4) viewable angles.
 - c. A copy of an Environment Analysis by a third party qualified professional 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, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

- d. A copy of an Avian and Wildlife Impact Analysis by a third party qualified professional 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, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

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 raptor.

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.

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.

- e. A copy of a shadow flicker analysis at occupied structures to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the occupants of the structures and show measures that shall be taken to eliminate or mitigate the problems.
- f. A second site plan, which includes all the information found in Article XXII of this Ordinance, and shows the restoration plan for the site after completion of the project which includes the following supporting documentation:
 - i. The anticipated life of the project.

- ii. The estimated decommissioning costs net of salvage value in current dollars.
 - iii. The method of ensuring that funds will be available for decommissioning and restoration.
 - iv. The anticipated manner in which the project will be decommissioned and the site restored.
- g. A description of the complaint resolution process developed by the applicant 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 Almena Township 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.

Section 17.27 - Acceptable Plant Materials for Greenbelt Areas and Screening

A. Section Plant Materials

Whenever in this Ordinance a greenbelt or screen planting is required, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided. The Township Board may secure financial guarantees in a situation where the planting must be deferred for a period greater than six (6) months in an amount sufficient to complete installation of materials in accord with the approved plan.

B. Plant Material Spacing

1. Plant materials shall not be placed closer than four (4) feet from the fence line or property line.
2. Where plant materials are placed in two (2) or more rows, plants shall be staggered in rows.
3. Evergreen trees except narrow or columnar as in "D" below, shall be planted not more than 30 feet on center and shall be not less than five (5) feet in height.
4. Narrow or columnar evergreens shall be planted not more than six (6) feet on centers, and shall be not less than three (3) feet in height.

5. Tree-like shrubs shall be planted not more than 10 feet on centers, and shall be not less than four (4) feet in height.
6. Large deciduous shrubs shall be planted not more than four (4) feet on centers, and shall be not less than six (6) feet in height.
7. Large deciduous trees shall be planted not more than 30 feet on center, and shall be not less than eight (8) feet in height.

C. Trees Not Permitted

1. Box Elder
2. Catalpa
3. Elms
4. Horse Chestnut (Nut Bearing)
5. Poplars

D. Suggested Plant Materials

1. Evergreen Trees (Minimum five (5) feet in height.)
 - a. Douglas Fir
 - b. Fir
 - c. Hemlock
 - d. Juniper
 - e. Pine
 - f. Spruce
2. Narrow Evergreens (Minimum three (3) feet in height.)
 - a. Arbor-Vitae: Columnar Giant
 - b. Arbor-Vitae: Douglas
 - c. Cypress: Column Hinoki
 - d. Juniper: Blue Columnar Chinese
 - e. Red Cedar: Pyramidal
 - f. Stone Pine: Swiss
 - g. White Pine: Pyramidal
 - h. Yew: Irish
3. Tree-like Shrubs (Minimum four (4) feet in height.)
 - a. Dogwood
 - b. Flowering Crab
 - c. Hawthorn
 - d. Hornbeam
 - e. Magnolia

- f. Mountain Ash
 - g. Red Bud
 - h. Rose of Sharon
4. Large Deciduous Scrubs (Minimum six (6) feet in height.)
- a. Forsythia
 - b. Hazelnut
 - c. Lilac
 - d. Mock Orange
 - e. Ninebark
 - f. Sumac
 - g. Viburnum
 - h. American plum
 - i. Serviceberry
 - j. Juneberry
 - k. Elderberry
5. Large Deciduous Trees (Minimum eight (8) feet in height.)
- a. Beech
 - b. Big Tooth Aspen
 - c. Birch
 - d. Ginkgo
 - e. Hackberry
 - f. Hard Maple
 - g. Honey Locust
 - h. Hop Hornbeam
 - i. Linden
 - j. Norway Maple
 - k. Oak
 - l. Planetree (Sycamore)
 - m. Sweet Gum
6. Grasses and Ground Covers for Use in Inhibiting Erosion
- a. American Beach grass - hand planted
 - b. Kentucky 31 Tall Fescue - 20 lbs. per acre
 - c. Marram Grass
 - d. Little Blue Stem
 - e. Sand Reed Grass

Where possible, Almena Township recommends the planting of natural, native plant species, particularly in sensitive environments such as near wetlands and along shorelines. Noted or recognized invasive species shall be prohibited from use.

Section 17.28 - Private Road Maintenance Agreements and Construction Standards

Any private road approved after the effective date of this Ordinance shall comply with the following standards and requirements:

- A. Any private road, whether located within a private road easement or included in any planned unit development (PUD) or other site plan approved by the Township, shall meet all of the right-of-way and construction standards established by the Van Buren County Road Commission.
- B. Removal of trees within such right-of-way shall not be required by the Township, but shall be subject to discretionary approval by the Township Planning Commission.
- C. All private roads shall be posted with maximum speed 25 miles per hour located at each entrance to the private road. Additional road and speed limit signs shall be located as recommended by the Sheriff's Department, the Township Board, and/or the Van Buren County Road Commission.
- D. Approval of all private roads in the Township shall require the filing of documentation with the Township of either a Master Deed for a condominium or a road maintenance agreement for a private road servicing two (2) or more individual parcels of legally recorded property demonstrating legal capacity to provide for perpetual and continued maintenance of the private road including snow removal, road surface maintenance and repair for approval by the Township Attorney. Such documentation shall be recorded with the Register of Deeds of the County of Van Buren prior to the approval of the issuance of the permit by the Township.

Section 17.29 - Outdoor Swimming Pools, Jacuzzis and Hot Tubs in any District

Outdoor swimming, pools, Jacuzzis, hot tubs and similar type facilities having a water depth in excess of 24 inches whether "above ground or below ground" shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:

- A. There shall be a minimum rear yard setback distance of not less than 10 feet, between the adjoining property line, and the outside of the pool wall. Side yard setbacks shall apply to side yards, if greater than 10 feet.
- B. There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.
- C. No swimming pool shall be located within the boundary of any easement.
- D. Security fencing shall be provided in accord with the requirements of the Michigan Construction Code, Chapter 41, Appendix G.

Section 17.30 - Outdoor Kennels for Dogs in all Zoning Districts

Outdoor kennels for dogs, when permitted in the zoning district, shall be subject to the following requirements:

1. The kennel is registered and continuously operated in accord with Regulation 151 promulgated by the Michigan Department of Agriculture, pursuant to the Pet Shops, Dog Pounds, and Animal Shelters Act, P.A. 287 of 1969, as amended.
2. The kennel shall be located on a lot having an area of at least (5) acres.
2. Any portion of the kennel shall be setback a minimum of 150 feet from preexisting dwellings located upon adjoining properties under different ownership.
3. The kennel shall be operated in conformance with all applicable county, state, and federal regulations.
4. The kennel shall be prohibited where conditions of maintenance are such to cause:
 1. Unpleasant odors to be generated sufficiently strong to be discernable upon property of others for a continuous period of longer than six (6) days; or
 2. Noise to be generated sufficiently loud to penetrate indoors upon property of others for continuous periods in excess of four (4) hours; or
 3. Flies, insects, or rodents to be attracted to the place where said dogs are kept and are thereafter permitted to multiply and escape upon adjoining property; and
 4. Said dogs, or any refuse there from, to trespass or be carried upon adjoining property.

Section 17.31 - Prohibition on the Raising or Keeping of Dangerous Animals.

- A. The raising or keeping of dangerous animals and controlled wildlife is prohibited within residential plats (or residential condominiums) and upon property within 150 feet of existing dwellings located upon adjoining properties under different ownership.
- B. Raising and/or keeping of dangerous animals and controlled wildlife shall meet the requirements of Federal, State, County and Township laws regulating such animals.

Section 17.32 - Animal Raising Exemption for Youth Participating in 4-H Animal Husbandry Program.

Nothing in this Ordinance shall prohibit any child or youth legally residing as a resident in any dwelling in the Township from temporally keeping and raising a farm or other animal not legally

permitted in the zoning district as part of a recognized activity under sponsorship of a 4-H Program. It is the specific intent of this exemption to allow the keeping of such animals on a temporally basis until the 4-H event or program is completed or ended upon which the animal will no longer be housed on the premises.

This exemption shall not apply to lots or units located within subdivision plats, condominium, or site condominium developments. The property shall be maintained in accord with the requirements of the GAAMP standards to avoid creating a nuisance situation.

Section 17.33 - Common Use (Keyhole) Lots

- A. **Common Use Lot (Keyhole) Defined.** A common use riparian lot (keyhole) shall be defined as any private site, platted lot or other parcel held in common by a subdivision, association, similar agency or group of individuals, or held in common by virtue of the terms of a plat of record; which provides common use riparian access to non-riparian lots or land owners.

- B. **Applicability.** These regulations shall apply to the following common use lots:
 - 1. Those lots created after the effective date of this ordinance.
 - 2. Those lots of record existing prior to the effective date of this ordinance that did not provide common use access to a water body (riparian rights to non-riparian land owners) prior to the effective date of this ordinance.
 - 3. Lots that have been providing common use access to a water body for a defined geographical area or a specific number of lots through an association or subdivision/condominium deed prior to the effective date of this ordinance, and where it is proposed to expand the geographical area or number of lots that are provided common use access to a water body through said common use access lot.
 - 4. Lots of record existing prior to the effective date of this ordinance that have been providing common use access to a water body for a defined geographical area or a specific number of lots may continue to provide riparian rights subject to the marina operating permit requirements of the Michigan Department of Natural Resources under the Michigan Inland Lakes and Streams Act.

- C. **Uses Subject to Special Use Permit.** The following uses shall be permitted on a common use lot in any district upon approval of the Planning Commission and subject to conditions as specified in Article XXIII.
 - 1. Recreational sites, including bathing beaches, playgrounds, and other recreational areas.

2. Scenic sites.
3. Trails, bicycle paths and access routes, other than dedicated streets.
4. Boat and watercraft docks provided that all of the requirements of Paragraph F are met.

D. **Area and Bulk Requirements.** Waterfront sites dedicated to common use shall conform in all respects to the area and bulk requirements of the adjacent districts that they are intended to serve, unless otherwise permitted by the standards of this section of the Ordinance.

E. **General Requirements.**

1. The deed to such lot or parcel shall specify the non-riparian lots or parcels that shall have rights to its use.
2. Such riparian lot or parcel shall satisfy the minimum frontage standards along the water frontage of the subject zoning district, measured by a straight line which intersects each side lot line at the water's edge; a minimum lot depth of 150 feet, measured as the minimum distance between the water's edge and the lot line which is opposite the water's edge; and a minimum area of three-quarters (3/4) acre.

F. **Boat and Watercraft Docks.**

1. The maximum number of boats and/or personal watercraft which can be docked, moored, or stored at a common use riparian parcel shall be one (1) per 150 feet of riparian frontage.
2. If the facility stores four (4) or more boats and personal watercraft, the facility must obtain a permit for marina operation from the Michigan Department of Natural Resources in accordance with Administrative Rules of the Michigan Inland Lakes and Streams Act (P.A. 346 of 1972, as amended). Design for a boat and watercraft dock facility shall meet all of the Michigan Department of Natural Resources standards for marinas.

Section 17.34 – State Licensed Residential Facilities (Child and Foster Care Facilities)

1. An adult foster care family home, adult foster care home, family child day care home, and any other state licensed residential facility housing six (6) or fewer individuals, shall be considered a residential use of property and approved as such in all residential districts.

2. A group child day care home shall be granted a special use permit in any residential district if it satisfies all of the following conditions:
 1. The facility is located no closer than 1,500 feet to any of the following:
 - a. Another licensed group child day care home.
 - b. Another adult foster care small group home or large group home licensed under the adult foster care licensed act.
 - c. A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people licensed under Article 6 of the public health code.
 - d. A community correction center, resident home, halfway house, or similar facility which houses an inmate population under the jurisdiction of the department of corrections.
 2. The facility has appropriate fencing for the safety of the group child day care home as determined by Almena Township.
3. The facility maintains the property consistent with the visible characteristics of the neighborhood.
4. The facility does not exceed 16 hours of operation during a 24-hour period. The Township may limit but not prohibit its operation between the hours of 10:00 p.m. and 6:00 a.m.
5. The facility complies with all appropriate sign regulations.
5. The facility provides adequate off-street parking for its employees.

Section 17.35 – Storm water Control & Detention and Landscaping

1. **Natural Drainage Patterns.** Maintain natural drainage patterns and minimize disturbances to a site's vegetation to minimize, reduce and/or filter runoff. Storm water management techniques shall be designed to manage storm water on-site and prevent any increase in flow to adjacent properties.
2. **Wetlands and Existing Drainage Patterns.** The site plan shall, as far as possible, retain wetlands and existing drainage patterns as a part of the storm water drainage system. The intent is to reduce infrastructure costs and flooding frequency, as well as to increase open space and wildlife habitat.

3. Storm water Runoff Reduction, Retention, & Reuse. Site designs shall include elements to reduce, retain, and reuse storm water runoff on-site. To reduce storm water runoff, developments can incorporate natural drainage patterns, minimize impervious surfaces including roads and parking, and whenever possible include porous asphalt, pervious concrete, or other alternative paving. Because mature trees contribute significantly to reduction in storm water runoff, preserving existing trees should be a priority.
4. Rain Gardens. Excess water from roofs, sidewalks, streets, and parking areas is encouraged to be directed to rain gardens designed so that the water will seep through the soil and pollutants will be filtered out.
5. Reduce the Total Amount of Impervious Surface and Increase Areas of Vegetation. Driveways and parking areas shall be designed as small as possible and constructed with alternative paving whenever possible.

Section 17.36 – Outdoor Assemblies

A. Exceptions to Ordinance

1. An event which is conducted or sponsored by a governmental unit or agency upon public property.
2. Any event held entirely within the confines of a permanent or enclosed and covered structure.
3. An event held at a permitted or approved facility designed specifically to hold outdoor assemblies.
4. An event with fewer than 1,000 attendees.

B. Definitions

1. **Person** – Any natural person, partnership, corporation, association or organization.
2. **Sponsor** – Any person who organizes, promotes, conducts or causes to be conducted, an outdoor assembly.
3. **Attendant** – Any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of payment of money for admission.
4. **Licensee** – Any person to whom a license is issued pursuant to this ordinance.
5. **Outdoor Assembly** – Any event on non-public property, attended by more than 1,000 attendees, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement, or other exhibition.

C. Licensing

A person shall not sponsor, operate, maintain or conduct an outdoor assembly in Almena Township without a license for each such assembly. The application for license to conduct an outdoor assembly must be made in writing at least 60 day prior to date of proposed assembly and must include a non-refundable \$485 fee.

The application shall include at least the following information:

1. Name, residence, and mailing address of the person making the application or in the case of a partnership, corporation, or other association, information shall be included as to partners, officers, directors, and/or members of the association. Where the applicant is a corporation, a copy of the Articles of Incorporation shall be filed and the names and addresses of all shareholders having a financial interest greater than \$500.00 shall be provided. Applicant shall provide history of other events applicant has sponsored, organized and managed.
2. A statement of the kind, character, and type of proposed assembly.
3. The address, legal description, and proof of ownership of the site on which the proposed assembly is to be conducted. (Where ownership is not vested in the prospective licensee, they shall submit an affidavit from the owner indicating consent to the use of the site for the proposed assembly).
4. A site plan shall be provided showing all facilities, access points, fencing, etc.
5. The date or dates and hours the proposed assembly is to be conducted.
6. An estimate of the maximum attendance expected at the assembly for each date it is conducted.
7. A list of recent outdoor assembly events produced or sponsored by the applicant.
8. Detailed information showing that the proposed licensee will meet the requirements in Section 17.36 G.

D. Issuance of License: On receipt by the clerk, copies of the application shall be forwarded to the following for review and comment:

- The Van Buren County Sheriff's Office
- The Van Buren County Health Department
- The Fire Inspector with jurisdiction over the site
- Any other agencies, as determined by the Township Zoning Administrator

The request shall be placed on a Township Board agenda for a meeting not more than 45 days from the receipt of the application. The Township Board may approve, deny, or approve the request with conditions.

Where conditions are imposed as a prerequisite to the issuance of a license, or where a license is denied, within 5 days of such action, notice thereof must be mailed to the applicant by certified mail, and in the case of denial, the reasons therefore shall be stated in the notice.

E. Basis of License Denial.

A license may be denied if the applicant fails to comply with any or all requirements of this ordinance or with any or all conditions imposed pursuant hereto or with any other applicable provisions of state or local law or if the applicant has knowingly made a false, misleading, or fraudulent statement in the application or in any supporting document.

F. License.

A license shall specify the name and address of the licensee, the kind and location of assembly, the duration of the license, and any other conditions imposed pursuant to this ordinance. It shall be posted in a conspicuous place upon the premises of the assembly and shall not be transferred to any other person or location.

G. Regulations On Outdoor Assembly

1. **Security Personnel.** The licensee shall employ a professionally licensed security firm, at their own expense. Such security personnel as are necessary and sufficient to provide for the adequate security protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the assembly. Security personnel must be professionally licensed, certified, and insured.

2. **Water & Waste Facilities.** The license shall provide potable water as approved by a County Health Officer of sufficient quantity and pressure to assure proper operation of all water using facilities under conditions of peak demand. The number and type of facilities required shall be determined on the basis of the number of attendants in the following manner:

- Toilets and lavatories at a ratio of 1 to every 200 attendants
- Drinking fountains at 1 to every 500 attendants
- Taps or faucets: 1 for every 500 attendees

All facilities shall be installed, connected, and maintained free from obstruction, leaks, and defects, and shall at all times be in operable condition as determined by the County Health Officer. (Public Bathing Beaches shall be provided or made available or accessible only in accordance with Act 218, Public Acts of 1967, as amended, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable provision of state or local law. Public swimming pools shall be made available only in accordance with Act 230, Public Acts of 1966, as amended, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable provisions of state or local law).

The above regulations in this subsection may be altered or waived by the County Health Department or Building Department.

3. **Liquid and Solid Waste Disposal.** The licensee shall provide proper liquid and solid waste disposal so as to neither create nor cause a nuisance or menace to the public health as determined by the County Health Department.

4. **Temporary Building Facilities:** All building facilities erected or assembled on site shall be reviewed and permitted by the local Building Official.

5. **Food Services.** If food is made available on the premises, it shall be delivered only through concessions licensed to operate in accordance with the provisions of Act 269, Public Acts of 1968, as amended, and the rules and regulations adopted pursuant thereto and in accordance with any applicable state or local law.
6. **Medical Facilities.** Each assembly must have medical services available in a suitable building.
7. **Access and Traffic Control, Parking, Camping and Trailer Parking.** Access, traffic control, and parking shall be provided to insure proper ingress, egress, orderly flow of traffic and orderly parking of vehicles brought to the assembly. Traffic lanes and other spaces shall be provided, designated and kept open for access by emergency vehicles. Prior to the issuance of a license, the Van Buren County Road Commission and Sheriff's Office must approve the plans for access and traffic control. MDOT approval may be required for sites abutting M-43 and M-40. The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall it provide less than one automobile space for every four attendants. The parking area need not be paved. The licensee shall provide electrical service for camping vehicles.
8. **Sound Producing Equipment.** Including, but not limited to, public address systems, radios, phonographs, musical instruments, and other sound producing devices shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the Township, in the opinion of a local, county, or state police officer responding to the scene of the assembly.
9. **Insurance.** Before the issuance of a license, the licensee shall obtain liability insurance with bodily injury limits of not less than \$300,000.00 and property damage limits of not less than \$50,000.00 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons, or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the Clerk of the Township in writing at least 10 days before the expiration or cancellation of said insurance.
The Liability Policies obtained by the licensee shall include Almena Township as an additional named insured. Original copies of said policies and all renewals shall be delivered to the Township Clerk immediately upon issuance. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the Township Clerk in writing at least 10 days before the expiration or cancellation of the insurance policy.

10. **Bonding:** Before the issuance of a license, the licensee shall obtain from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000.00 in a form to be approved by the Township Board, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Ordinance and all applicable provisions of state or local law, and which shall indemnify the Township, its agents, officers, employees, and the board against any and all loss, injury, or damages whatsoever arising out of, or in any way connected with the assembly and which shall indemnify the attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.
11. **Fire Protection.** The licensee shall take adequate steps, as determined by the fire department with jurisdiction, to insure fire protection.
12. **Fencing.** The licensee shall erect a fence, completely enclosing the site of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.
13. **Miscellaneous.** Prior to the issuance of a license, the Township Board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare, and property of attendants or of citizens of the Township.

G. Revocation.

The Township Board may revoke a license whenever the licensee, his employee, or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth herein or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated herein by reference.

H. Violations.

It shall be unlawful for a licensee, his employee, or agent, to knowingly:

1. Advertise, promote or sell tickets to conduct or operate an assembly without first obtaining a license as herein provided.
2. Conduct or operate an assembly in such a manner as to create a public or private nuisance.
3. Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment or amusement.
4. Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct.

5. Permit any person to unlawfully consume, sell or possess, intoxicating liquor while on the premises.
6. Permit any person to unlawfully use, sell, or possess any narcotics, narcotic drugs, drugs, or other substances as defined in Act 343, Public Acts of 1952, or as may be amended.

Any of the above enumerated violations is a separate offense, is a nuisance per se immediately enjoined in the circuit courts, and is punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, or by both fine and imprisonment.

It is further provided that any of the above violations is a sufficient basis for revocation of the license and for the immediate enjoining in the circuit court of the assembly.

Section 17.37 – Marihuana Establishments: Marihuana Grower, Marihuana Microbusiness, Marihuana Processor, Marihuana Retailer, Marihuana Safety Compliance Facility, Marihuana Secure Transporter

- A. Marihuana establishments shall be reviewed in accordance with the special land standards, site plan standards and requirements, and all other zoning requirements for development.
- B. An approval shall be contingent upon approval of a Marihuana Establishment Permit issued by the Almena Township Board. Special land use permits shall only be valid for the permit term of the Marihuana Establishment Permit. In the case of a lapse in validity of a Marihuana Establishment Permit for more than one (1) year, a new special land use permit shall be necessary and processed in accordance with procedures outlined in Article XXIII.
- C. All marihuana establishments shall remain in compliance with the Almena Township Zoning Ordinance and the Almena Township Marihuana Establishment Permitting Ordinance.

Section 17.38 Farm-Related Businesses

- A. Accessory Use. Businesses and activities shall remain accessory and incidental to the farm use of the property.
- B. Setbacks. Parking and buildings associated with the use shall be 100 feet from all lot lines. The use of existing buildings and parking areas within 100 feet of lot lines may be approved if it is determined that the proposed use will have no harmful effects on adjacent residential uses. However, as a condition of approval, the Township may also require increased setbacks if it determined that greater separation would better protect adjacent residents and landowners.

- C. Location of Buildings. In consideration of the site plan associated with the special land use, the Township shall consider the placement of farm-related business buildings and activities as they relate to the potential impact on adjacent properties.
- D. Parking and Driveway Surface. Parking areas and driveways shall be paved with asphalt or concrete, or an approved pervious surface of equal durability. Gravel, crushed rock, and other alternative surfaces may also be permitted if properly drained and maintained in a durable state that minimizes dust generation. Approval of pervious surfaces shall be to the discretion of the Township Board. Parking is prohibited along public roads and right-of-way.
- E. Annual and Seasonal Events. The allowable number of annual and seasonal events and activities shall be set by the Township during review and approval of the special land use application. Limitations may be imposed by the Township to preserve existing residential character.
- F. Hours of Operation. The hours of operation of annual and seasonal events, as well as permanent uses shall be set by the Township during review and approval of the special land use application. The intent of these restrictions is to ensure the use remains accessory and incidental to the farm use of the property and not a typical commercial use.
- G. Sanitation. Permanent or temporary restroom facilities shall be provided for all uses and activities in accordance with the rules and regulations of the Van Buren County Health Department.
- H. Noise. Outdoor amplified sound is prohibited.
- I. Building and Fire Code Compliance. All buildings or structures accessible to the public shall have permits obtained and inspections completed to ensure building and fire code compliance for the use group specified.
- J. Buffering and Screening. At the discretion of the Township, screening and buffering may be required to reduce visual and audible impact to nearby properties, as well as light spillover.
- K. Farm Micro-Breweries and Small Wineries. Farm micro-breweries and small wineries, as defined by the Michigan Liquor Control Commission (MLCC), shall comply with the following requirements:
 - a. Wine and beer may be produced, sold for off-site and on-site consumption, and served for tasting.
 - b. The Township may place limitations on by-the-glass sales of alcohol to consumers for on-site consumption.

- c. A portion of the ingredients must be grown on the subject site.
- d. The operation shall have a valid Small Wine Maker or Micro Brewer License from the MLCC.
- e. Operations shall comply with the requirements of the MLCC. In cases where the requirements of this section are stricter than MLCC requirements, this section shall supersede.

L. Alcohol Service at Events.

- a. Beer, wine, and spirits may be served at private events under a MLCC Catering Permit, however, alcoholic beverages shall not be sold directly to consumers.
- b. Service shall comply with the requirements of the MLCC. In cases where the requirements of this section are stricter than MLCC requirements, this section shall supersede.
- c. This section does not apply to private events where a host and/or guests supply alcoholic beverages and there are no charges of any kind, including entry fees and donations to cover the cost of the beverages.

M. Lighting. Site lighting shall comply with Section 17.15; however, lighting shall not exceed 3.0 foot-candles in any location on the subject property and shall not exceed an average of .08 foot-candles. Light levels shall not be detectable along lot lines on a photometric plan (0.0 foot-candles).

N. Outdoor Assembly. The requirements of Section 17.36- Outdoor Assemblies shall also apply to events, unless exempted by Section 17.36 A.

**ARTICLE XVIII
OFF-STREET PARKING AND LOADING**

Section 18.01 - Off-Street Parking Requirements - Permanency

There shall be provided in all districts, at the time of erection or enlargement of any main building or structure, automobile off-street parking spaces with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a building or zoning compliance permit by the Building Inspector.

Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided, elsewhere.

Section 18.02 - Location of Off-Street Parking (side or rear yard only)

Off-street parking spaces may be located within the non-required side or rear yard and within the rear yard setback unless otherwise provided in this Ordinance. Other than within a designated driveway leading from the road to a garage or other designated parking area, no off-street parking shall be permitted within a required front yard or a side yard setback unless otherwise provided in this Ordinance.

Section 18.03 - Location of Nonresidential Parking

Off-street parking required for other than a residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership by the applicant shall be shown for all lots or parcels intended for use as parking by the applicant.

Section 18.04 - Residential Off-Street Parking

Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve, and subject to the provisions of Article XVII, Section 17.12 - Accessory Use Structures and Buildings.

Section 18.05 - Preexisting (conforming and nonconforming) Parking

Off-street parking, existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

Section 18.06 - Combination of Required Spaces and Joint Use of Parking

Two (2) or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Zoning Board of Appeals may grant an exception, and reduce the total number of parking space required.

Section 18.07 - Restriction of Use of Parking Spaces for Storage, Merchandise Display, Vehicle Repair, etc.

The use of required parking facilities for the storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.

For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Zoning Administrator considers similar in type.

Section 18.08 - Calculation of Required Spaces Based on Usable Floor Area

When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one half (1/2) shall be disregarded and fractions greater than one half (2) shall require one (1) parking space.

For the purpose of computing the number of parking spaces required, the definition of usable floor area in Article II - Definitions, shall govern.

Section 18.09 - Schedule of Required Parking Spaces

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Section 18.09 SCHEDULE OF REQUIRED PARKING SPACES	
Use	Minimum Number of Parking Spaces
Residential	
Residential, single family	Two (2) for each dwelling unit
Residential, multiple family	Two (2) for each dwelling unit
Housing for the elderly	One (1) for each two (2) units plus one (1) for each on-duty employee
Mobile home park	Two (2) for each unit plus one (1) for each on-duty employee

Section 18.09 SCHEDULE OF REQUIRED PARKING SPACES	
Use	Minimum Number of Parking Spaces
Institutional	
Churches	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship
Hospital and medical clinics	One (1) for each one (1) bed, plus one (1) for every one and one-half (1.5) employee in the largest working shift.
Homes for the aged and convalescent homes	One (1) for each four (4) beds
Elementary and middle schools	One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium
High schools	One (1) for each one (1) teacher, employee, or administrator and one (1) for each 10 students, in addition to the requirements for the auditorium
Private club or lodge hall	One (1) for each three (3) persons allowed within the maximum occupancy load as established by the local, county or state fire, building or health code
Private golf club, swimming pool club, tennis club or other similar use	One (1) for each two (2) member families, or individuals plus spaces required for each accessory use, such as a restaurant or bar
Golf courses open to the general public, except miniature or Apar@ courses	Six (6) for each golf hole and one (1) for each one (1) employee, plus spaces for each accessory use such as a restaurant or bar
Stadium, sports arena, or similar places of outdoor assembly	One (1) for each three (3) seats or six (6) feet of benches
Theaters and auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees
Business and Commercial	

Section 18.09 SCHEDULE OF REQUIRED PARKING SPACES	
Use	Minimum Number of Parking Spaces
Planned commercial shopping center	One (1) for each 100 square feet of usable floor area
Auto wash (automatic)	One (1) for each one (1) employee, in addition, reservoir parking spaces equal in number to five (5) times the maximum capacity of the car wash. Maximum capacity of auto wash shall mean the greatest numbers of automobiles possible undergoing some phase of washing at the same times, which shall be determined by dividing the length in feet of each wash line by 20
Auto wash (self-service or coin operated)	Five (5) for each washing stall in addition to the stall itself
Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1 1/2) for each additional chair
Bowling alleys	Five (5) for each one (1) bowling lane plus the required parking for any accessory use
Dance hall, pool or billiard parlors, roller or skating rinks, exhibition halls, and general assembly hall without fixed seats	One (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health code
Establishments for sale and consumption on the premise of beverages, food or refreshments	One (1) for each 100 square feet of useable floor space or one (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health code, whichever is greater
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses	One (1) for each 800 square feet of useable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein)
Gasoline service stations	Two (2) for each lubrication stall rack, or pit; and one (1) for each gasoline pump

Section 18.09 SCHEDULE OF REQUIRED PARKING SPACES	
Use	Minimum Number of Parking Spaces
Laundromats and coin operated dry cleaners	One (1) for each two (2) washing and/or dry cleaning machines
Miniature or Apar-3" golf courses	Three (3) for each one (1) hole plus one (1) for each one (1) employee
Mortuary establishments	One (1) for each 50 square feet of usable floor area
Motel, hotel or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee
Motor vehicle sales and services establishments	One (1) for each 200 square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room
Nursery school, day nurseries, or child care centers	One (1) for each 350 square feet of usable floor space
Retail stores except as otherwise specified	One (1) for each 150 square feet of usable floor space
Offices	
Banks	One (1) for each 100 square feet of usable floor space
Business offices or professional offices except as indicated in the following	One (1) for each 200 square feet of usable floor space
Professional offices of doctors, dentists, or similar professions	One (1) for each 50 square feet of usable floor area in waiting rooms, and one (1) for each examining room, dental chair, or similar use area.
Industrial	

Section 18.09 SCHEDULE OF REQUIRED PARKING SPACES	
Use	Minimum Number of Parking Spaces
Industrial or research establishments, and related accessory offices	Five (5) plus one (1) for every one and one-half (1.2) employee in the largest working shift. Space also shall be provided for all construction workers during periods of plant construction
Warehouses and wholesale establishments and related accessory offices	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every 1,700 square feet of usable floor spaces, whichever is greater

Section 18.10 - Off-Street Parking Space Layout, Standards, Construction and Maintenance

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

- A. No parking lot shall be constructed unless and until a Zoning Compliance Permit therefore is issued by the Zoning Administrator. Applications for a permit shall be submitted to the Zoning Administrator in such form as may be determined by the Zoning Administrator and shall be accompanied with two (2) sets of site plans for the development and construction of the parking lot showing that the provisions of this Section will be fully complied with.
- B. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern in Degrees (°)	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces Plus Maneuvering Lanes	Total Width of Two Tier of Spaces Plus Maneuvering Lane
0° Parallel Parking	12 ft.	8 ft.	23 ft.	20 ft.	28 ft.
30 to 53°	12 ft.	8 ft.-6 in.	20 ft.	32 ft.	52 ft.
54 to 74°	15 ft.	8 ft.-6 in.	20 ft.	36 ft.- 6 in.	58 ft.
75 to 90°	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.

- C. All spaces shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- D. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
- E. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not cross another property in an agriculture / residential zoning district.
- F. Maneuvering lane widths shall permit a single lane of one-way traffic movement, except that lots with a 90 degree pattern may permit two-way movement.
- G. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet distant from an adjacent property in an agriculture / residential zoning district.
- H. The off-street parking area shall be provided with a continuous and obscuring wall not less than four feet six inches (4' - 6") in height measured from the surface of the parking area. This wall shall be provided on all sides where the next zoning district is an agriculture / residential district.
- I. When a front yard setback is required, all land between said wall and front property line or street right-of-way line shall be kept free of refuse and debris and shall be landscaped. The ground area and all landscaping shall be kept neat and orderly in appearance and all plant materials shall be maintained in a healthy, growing condition.
- J. The entire parking area, including parking spaces and maneuvering lanes, required under this Section shall be provided with a permanent, durable and dustless hard surface.
- K. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- L. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
- M. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than 10 feet from such alley line in order to permit a wider means of access to the parking area.
- N. Parking lots with 15 or more spaces shall provide internal parking lot landscaping areas totaling 50 square feet per parking space. These areas shall be a minimum of 10 feet in width and have at least 75% natural covering (i.e. grass, ground cover, shrubs, trees, etc.)

One (1) large deciduous tree (6 ft. height) per 300 square feet of parking lot area shall be provided in these areas. Storm water for the parking areas may be directed toward these areas.

- O. The Zoning Board of Appeals, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements, where, in unusual circumstances, no good purposes would be served by compliance with the requirements of this Section.

Section 18.11 - Off-Street Loading and Unloading

On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated right-of-ways. Such space shall be provided as follows:

- A. Off-street loading and unloading spaces shall, be provided as follows:
 - 1. Every office building, apartment, apartment hotel, motel and hotels shall provide off-street loading berths according to the following schedule:
 - a. One (1) space for each 5,000 square feet of gross floor area for the first 50,000 square feet of gross floor area, and
 - b. Two (2) additional spaces for every 50,000 square feet of gross floor area for the next 200,000 square feet of gross building floor area, and
 - c. One (1) additional space for every 75,000 square feet of gross floor area above 250,000 square feet of gross building floor area.
 - 2. Every retail or service establishment or wholesale commercial use shall provide off-street loading berths according to the following schedule:
 - a. One (1) space for each 2,000 square feet of gross floor area for the first 20,000 square feet of gross floor area, and
 - b. Two (2) additional spaces for every 20,000 square feet of gross floor area for the next 100,000 square feet of gross building floor area, and
 - c. One (1) additional space for every 75,000 square feet of gross floor area above 120,000 square feet of gross building floor area.
 - 3. Every industrial establishment shall provide off-street loading berths according to the following schedule:
 - a. One (1) space for the first each 20,000 square feet of gross floor area,

- b. One (1) additional space for every 20,000 square feet of gross floor area for the next 100,000 square feet of gross building floor area, and
 - C. Five (5) additional spaces if the gross floor area of the building exceeds 120,000 square feet of gross building floor area.
- B. Within the Industrial District, all spaces shall be laid out in the dimension of at least 10 by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a permanent, durable and dustless hard surface.
- C. All loading and unloading in an industrial district shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least 50 feet.

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**ARTICLE XIX
SIGN REGULATIONS**

Section 19.01 - Intent

The intent of this section is to establish regulations for all signs in all zoning districts.

Section 19.02 - Defined Terms

Terms used in this section are defined in Article II under the term “Signs”.

Section 19.03 - Signs Allowed in all Zoning Districts

The following signs may be allowed in all zoning districts.

A. Temporary Real Estate Sales Signs

Temporary signs not exceeding nine square feet in area advertising the sale or lease of real estate when located upon property to which the sign refers and when not located within the road right-of-way or easement. Such sign shall be removed upon sale or lease of the property.

B. Temporary Ground Signs Announcing Property Development

Temporary ground signs advertising future use or development of property on which such signs are located may be maintained subject to the provisions of this Section provided such signs do not exceed 32 square feet in area or remain longer than six (6) months. "For Rent" and "For Lease" signs in commercial and industrial districts for new buildings shall not exceed 32 square feet or remain more than 90 days after the building is completed, sold, or leased.

C. Religious and other Public Announcement Bulletin Boards

Churches, schools, and/or other public buildings shall be permitted to install changeable bulletin boards not exceeding 12 square feet in area as part of their overall signage.

D. Residential Nameplates

One (1) nameplate for each dwelling unit not exceeding two (2) square feet in area, indicating name of occupant only.

E. Traffic and Governmental Signs

Traffic and other governmental signs installed in the public right-of-way.

F. Wall Signs in the Agricultural, Agricultural Low Density, Agricultural Medium Density, and Waterfront Residential Zoning Districts

In the Agricultural, Agricultural Low Density, Agricultural Medium Density, and Waterfront Residential zoning districts, there may be one (1) wall sign attached to the building, projecting no more than 12 inches, not exceeding 18 square feet in area and relating only to the name or use of a multifamily or non-residential building.

G. Subdivision Ground Sign

A residential subdivision, development, PUD, etc. shall be permitted to have one freestanding sign at each entry to the neighborhood no more than 32 square feet in area and five feet in height presenting the name of the development.

H. Signs in the Commercial, Industrial and other Non-Residential Districts and for Non-Residential Uses in the Almena Settlement District

1. In any commercial, industrial or other non-residential zoning district or for non-residential uses in the Almena Settlement District, roof, wall, projecting, marquee, and awning signs are permitted when displaying no advertising matter except pertaining to the business conducted in the building or on the premises on which such sign is placed. The total square foot area of all signs located on a particular side of a building shall not exceed the width of the building on that side in linear feet. There shall not be more than one sign for each street frontage, plus one additional sign, including freestanding signs. (If there are multiple uses in the same building, see paragraph 5 below.)
2. Freestanding signs shall be limited to 25 feet in height measured to the grade at the base of the sign. Freestanding signs shall satisfy the existing side yard setback requirements for structures and be located outside of the public right of way. Such signs shall be situated away from driveways and in such a manner so as not to limit visibility for driving or turning.
3. Along M-40 and M-43, freestanding signs may be no more than 100 square feet in size. If a freestanding sign is double-sided, the size limitation shall only apply to one side. Despite the increased setback for structures along these highways, signs along these roads are permitted to be located a minimum of 50 feet from the road right of way.
4. Along all other road frontages in the Township, the maximum size of freestanding signs shall be 32 square feet. Such signs shall be located a minimum of 10 feet from the road right of way.
5. Freestanding signs for a building housing multiple businesses or services shall be combined into one sign per entrance. The display area for such signs shall be the same as for other freestanding signs (100 square feet along M-40 and M-43; 32 square feet along other roadways in the Township). Each business / tenant shall be permitted one building-mounted sign with an area based on a formula of one square foot per foot of tenant frontage. Not more than one (1) post or ground sign shall be erected upon a lot or tract of land having less than 1,000 feet of road frontage on a public road.

6. On a lot or parcel of land having more than 1,000 feet of public road frontage, one (1) freestanding sign may be erected for each 1,000 feet of public road frontage when located at least 1,000 feet apart whether on one (1) or more tracts of land.
7. No freestanding sign when erected on a lot or tract of land and fronting on intersecting streets shall be erected within 50 feet of the intersection of the streets.
8. No freestanding sign shall be located closer than 200 feet to any residential dwelling or agriculture / residential zoning district boundary.
9. All applications for a sign in these districts shall be subject to review and approval by Zoning Administrator and also subject to issuance to a Zoning Compliance Permit in addition to any required permit from County, State or Federal agencies. Signs involved in projects appearing before the Planning Commission shall appear on the site plans and documents presented for approval of the Planning Commission.

Section 19.04 - Compliance with other Regulations

All signs shall conform to all applicable codes and ordinances of the State of Michigan, Department of Transportation and any other County and/or local government regulations.

Section 19.05 - Projections into Right-of-Way Prohibited

No sign, except those established and maintained by the Township, County, State or Federal governments shall be located in, project into, or overhang a public right-of-way or dedicated public easement.

Section 19.06 - Maximum Height of Signs

No sign otherwise permitted shall project above or beyond the maximum building height limitation of the use district in which located as stated in Article XI, the Schedule of Regulations.

Section 19.07 - Supplemental Sign Regulations

The following additional sign regulations shall be observed:

A. Sign Area

The total area of the sign shall be calculated based on the space used for advertising purposes, including the spaces between letters and figures, the background, and or any other decoration or addition that is an integral part of the sign. Sign supports shall not be included in the calculation of sign area.

For Double Faced Signs, or signs placed back to back equal in size and shape with only one side visible when passing, the area calculation shall be based on the total area of just one of the sides of the sign and not both of the sides.

B. Wall Signs

Wall signs shall not extend beyond the building more than 12 inches and shall not be so erected as to cover the doors or windows of any building or otherwise prevent free ingress or egress to or from any window or door or any fire escape of any building.

C. Projecting Signs

Projecting signs may extend no more than one foot six inches (1'-6") from the building into the front yard. A minimum of eight feet clearance under the projecting sign shall be provided.

D. Portable Signs

Temporary signs other than those identified in paragraph E below, shall be authorized by the Zoning Administrator for not more than 15 days at a time by written permit, which shall show the size, shape, content, height, number, type of construction, and location of such signs and the period during which authorized, upon finding by the Zoning Administrator, on the basis of written information furnished by the applicant that the proposed sign or signs are for the direction and/or information of the public and not contrary to the spirit and purpose of this Ordinance, and upon payment of a fee set by the Township Board of each permit and renewal. If such signs are placed on public property, the Zoning Administrator shall remove them without notice. Banners, pennants, and movable signs shall be included in this category.

E. Vehicle Signs

A sign painted on, incorporated in, or attached directly to any mode of transportation, including but not limited to automobiles, trucks, boats, busses, airplanes, and trailers not used during the normal course of business shall not be parked or located for the primary purpose of displaying the advertising copy.

F. Temporary Signs in the “AG” Agricultural, “AGLD” Agricultural Low Density, and “AGMD” Agricultural Medium Density Districts

A temporary sign for a period not to exceed four (4) months may be temporarily installed in the “AG” Agricultural, the “AGLD” Agricultural Low Density, or the “AGMD” Agricultural Medium Density districts for the expressed purposes of advertising of on-site seasonally grown produce and other farm related activities (See: definition of farm related activities).

G. Paper Posters and Certain Signs or Devices Prohibited

1. Paper posters applied directly to the wall, building, pole, or other support, are prohibited, with the exception of small accessory signs (no more than three square feet in area) regulating the use of property such as “no trespassing”, “no parking”, “private property”, or “beware of dogs”. Temporary signs may not be displayed in or attached to the inside of show or display windows (except for advertising signs

in commercial establishments in the AS, C-1, C-2, and C-3 Commercial Zoning Districts).

2. Signs or devices which by color, location or design resemble or conflict with traffic control signs or devices are prohibited.
3. No sign shall be erected at any location so that it interferes with or obstructs the view of vehicular or pedestrian traffic.
4. No sign shall contain flashers, animators, streamers, or mechanical movements or contrivances of any kind, excepting clocks. The source of any illumination shall be hidden from view and shall not cause any glare or light to be shined onto adjacent property or passing motorists.

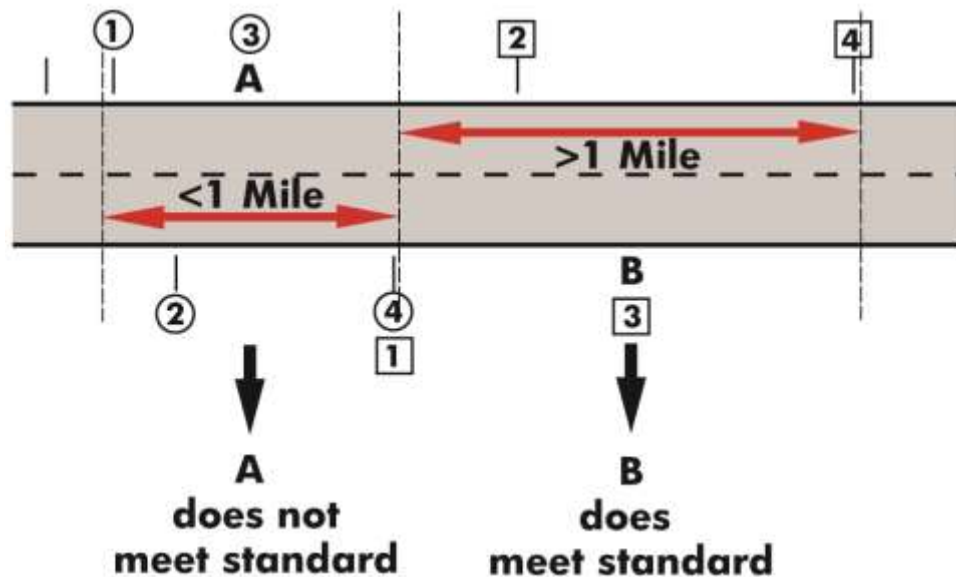
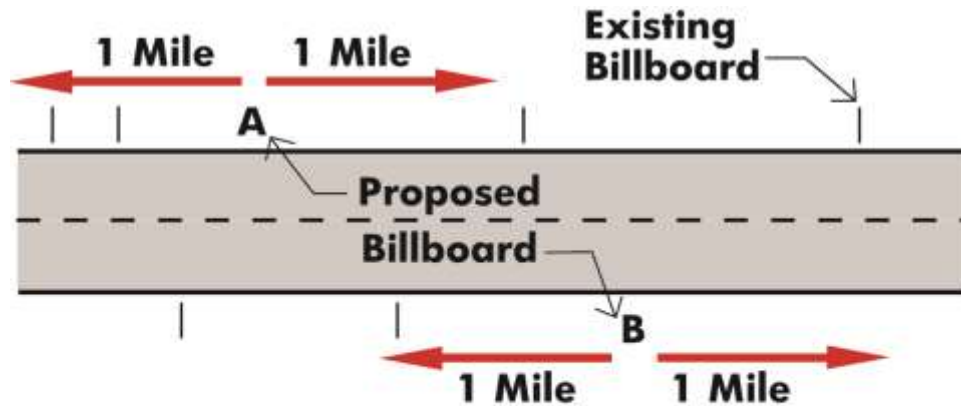
H. Sign Removal.

Signs advertising or identifying businesses or activities no longer in existence shall be removed by their owners within 30 days from the time the activity ceases, with the exception of seasonal businesses.

Section 19.08 - Billboards (Revised 5-27-11)

- A. Billboards may be located on either side of M-43 or along M-40 in any district zoned industrial or commercial, and they must meet the following requirements:
1. Billboards must be erected within all building setback requirements, except that the front yard setback for such billboards is reduced to a minimum of 100 feet from the M-40 and M-43 right of way.
 2. Total surface area of any billboard shall not exceed 500 square feet, and its height shall not exceed 20 feet, measured from the established grade at the base of the billboard. If the billboard has two faces, and only one face is visible when viewed from any direction, then the total area calculation shall be based on the area of just one face and not the total of both faces.
 3. No billboard shall be located within 500 feet of a residential zone and/or an existing residence.
 4. All applicable building permits/building codes provisions shall be adhered to.
 5. No additional billboard faces shall be permitted at any time when there are five (5) or more billboard faces existing in the Township.
 6. No more than three billboards may be located per linear mile, regardless if they are on opposite sides of the roadway. (To determine if the proposed location satisfies

this requirement, locate all existing billboards within one linear mile in either direction of the proposed billboard location. Then, find the four billboards within that span that are the closest to one another, including the proposed billboard location. Measure the distance between the outer pair of these four. If this distance is greater than one mile, then the location satisfies this requirement. If this distance is one mile or less, then the location fails this requirement.)



**ARTICLE XX
MINERAL REMOVAL**

Section 20.01 - Intent

The removal of sand, gravel, limestone, or similar materials by excavation, stripping, mining or otherwise taking, and including on-site operations appurtenant to the taking, including washing, grading, sorting or grinding operations shall be permitted only on land not considered or designated as being environmentally sensitive by the Michigan Department of Environmental Quality (MDEQ) and only when such land areas are located in the AG Agricultural or AGLD Agricultural Low Density zoning districts when approved and permitted pursuant to the requirements of this Section. Sites for which mining permits have been issued and mining begun previous to the effective date of this ordinance may be completed in accordance with the regulations and agreement in effect at the time the permits were issued. The Township reserves the right to waive any requirements deemed unnecessary in a specific case.

Section 20.02 - Permitted and Prohibited Activities

All processing of new materials from new sites begun subsequent to the effective date of this Ordinance including washing, grading, and further processing and/or storing shall be conducted entirely on the mineral removal site except that materials extracted may be hauled to locations outside the Township for further processing. No minerals extracted outside the limits of the property in question shall be brought in for washing, grading or further processing, except in the event of a public emergency as declared by the Township Board of Almena Township requiring the use of said natural resource. Resource related industries including, but not limited to concrete batching plants and asphalt mixing plants shall not be permitted as a use under these provisions.

All mineral removal operations shall not disturb in any manner clay aquitard underlying any mineral formations, on the site being mined. However, a mineral removal operation shall be permitted to mine or otherwise disturb clay lenses within mineral formations, which are being mined, so long as the lenses are not contiguous with a clay aquitard.

No subsurface mineral removal shall be allowed below the 575 ft. IGLD (International Great Lakes Datum) elevation. Any subsurface mining shall also comply with the applicable State regulations.

Section 20.03 - Application, Review and Permit/Renewal Procedure

A. Application and Required Documents and Fee

Applications for permits for the mining and removal of any natural resource from Almena Township shall be filed with the Zoning Administrator by the owners and/or lease holder of the land proposed for extraction purposes.

All applications shall contain a transmittal letter containing the name, address and telephone number of the applicant(s) and be accompanied by the fee as listed on the Township Schedule of Fees as established by the Township Board, from time to time.

The following items shall accompany the application:

1. Application

A completed mineral removal permit application on a form provided by the Zoning Administrator:

- a. Name, address, telephone number of applicant/operator.
- b. Name, address, telephone number of applicant's contact person.
- c. Name, address, telephone number of owner if different than applicant.
- d. Legal description of lot or lots for which a mineral removal permit is sought.
- e. Tax parcel code numbers for (d) above.
- f. Signature of applicant certifying that the information submitted on and with the permit application is true and correct to the best of his/her knowledge.
- g. If the owner is different than the applicant, signature of owner certifying that applicant is authorized to submit permit application.

2. Mineral Removal Operations Plan

A narrative and graphic presentation containing a:

- a. Description of the type of mineral to be mined.
- b. Description of the method of mining minerals from the site.
- c. Description of the method of moving minerals removed from the site for processing.
- d. Description of the method of processing minerals removed from the site.
- e. Description of the method of loading minerals removed from the site for transporting.
- f. Description of the method of transporting minerals removed from the site to its destinations.
- g. Description of any other equipment, structures, or land improvements at the mineral removal site.
- h. Estimated quantities of minerals to be removed from the site, from current year to completion of removal operation.
- I. Proposed sequence in which cell-units will be mined, from current year to completion of removal operation.
- j. Estimated dates for completion of restoration of cell-units.
- k. Estimated dates for reuse of restored cell-units.
- l. Measures to be taken to control noise.
- m. Measures to be taken to control wind-blown minerals and dust.
- n. Measures to be taken to control access to site.
- o. Measures to be taken to control glare.
- p. Measures to be taken to prevent trespassing.
- q. Measures to be taken to prevent waste accumulation.
- r. Measures to be taken to prevent erosion.
- s. Measures to be taken to prevent stagnant water.

- t. Measures to be taken to preserve existing vegetation.
- u. Measures to be taken to protect barrier dunes and critical dunes.
- v. Description of hours of operations for mining, moving, processing, loading, and transporting.
- w. If minerals removed will be shipped off-site by truck, description of type of trucks used, weight of loaded trucks, number of trucks leaving site per day, and route through Township to be used by trucks leaving site.
- x. Description of any other significant aspect of proposed mineral removal operations.
- y. Description of the impact of the proposed mineral removal operations upon existing mineral removal operations in the Township.

3. Hydro-geological Report

A narrative and graphic presentation containing a current hydro-geological report prepared by a qualified engineer, explaining the impact of the proposed mineral removal operations upon the groundwater under the mineral removal site, under adjacent property within one-half (1/2) mile of the mineral removal site.

4. Physical and Environmental Features Inventory

A narrative and graphic presentation containing an inventory of the physical and environmental elements of the proposed site. The inventory shall be conducted at a time or at different times of the year that will provide the most complete information regarding the existing conditions of the area that will be impacted directly or indirectly by the proposed activity.

5. Threatened or Endangered Species Inventory

A narrative and graphic presentation containing an inventory if threatened or endangered species are identified within the cell-unit boundaries, including measures to be taken to protect threatened or endangered species or, if not protected, measures to mitigate damage.

6. Mineral Processing and/or Treatment Operations

A narrative and graphic presentation if the proposed mineral removal activity includes beneficiation or treatment of the minerals, the application documents shall include specific plans depicting the methods, techniques, and manufacturer's material safety data sheets on all chemicals, or other additives that are not natural to the site, that will be utilized in the process. The operator shall also obtain all applicable state and federal permits prior to beginning the beneficiation process.

7. Road Access and Transport Plan

A narrative and area map showing access and haul routes and identifying wetlands, streams, lakes and ponds within a mile of the mining site.

8. Mineral Removal Site Plan

A mineral removal site plan (drawing), drawn to the following specifications, including the lot or lots on any portion of which mineral mining, moving, processing, loading, and transportation is to occur, and including adjacent property within 200 feet of the lot boundaries:

- a. Prepared by a registered engineer or land surveyor, dated, sealed, and signed.
- b. Scale of one (1) inch equals 200 feet or less.
- c. North point, scale, date, revision block.
- d. Adjacent public streets, which provide access to site.
- e. Locate all existing structures and land improvements.
- f. Delineate 100-year flood plain boundaries.
- g. Existing elevations at two (2) foot contours.
- h. Existing and proposed driveways and on-site service roads.
- i. Benchmark references.
- j. Locate any recorded easements or rights of way.
- k. Locate existing and proposed fences, gates, signs, parking areas.
- l. Locate existing and proposed fixed mineral removal equipment or structures.
- m. Locate existing and proposed fixed mineral moving equipment or structures.
- n. Locate existing and proposed fixed mineral processing equipment or structures.
- o. Locate existing and proposed fixed mineral loading equipment or structures.
- p. Locate existing and proposed fixed mineral transportation equipment or structures.
- q. Boundaries of lot or lots for which a permit is sought.
- r. Boundaries of adjacent properties within 200 feet of lot boundaries,
- s. Boundaries of area proposed to be mined, with mining cell-units numbered, cell-unit boundaries indicated, and cell-unit acreage indicated. Completed, interim, active and future cell-units shall be so designated. Locate all corners of cell-units with UTM coordinates or other acceptable coordinate system.
- t. Setback lines as required by this ordinance.
- u. Locate existing and proposed exterior lighting fixtures.
- v. Locate any environmental sensitive areas as designated by the MDEQ.
- w. Existing and proposed boundaries of any man-made lakes, and indicate existing acreage of surface area.

9. Restoration Plan

A narrative and graphic presentation including a site plan prepared by a registered engineer or land surveyor, dated, sealed, and signed, prepared according to the

following specifications showing the lot or lots on any portion of which mining, moving, processing, loading, and transportation has been conducted, is being conducted, or will be conducted, and including adjacent property within 200 feet of the lot boundaries, drawn to the following specifications:

- a. Scale of one (1) inch equals 200 feet or less.
- b. North point, scale, date, revision block.
- c. Adjacent public streets, which provide access to site.
- d. Locations of post-mining structures and land improvements, if any.
- e. Delineate 100-year flood plain boundaries.
- f. Post-mining elevations at two (2) foot contours.
- g. Post-mining driveways and on-site service roads,
- h. Benchmark references.
- i. Locate any recorded easement rights of way.
- j. Locate any post-mining fences, gates, signs, parking areas.
- k. Boundaries of lot or lots for which a permit is sought.
- l. Boundaries of adjacent properties within 200 feet of lot boundaries.
- m. Boundaries of land and area (in acres) that has been restored.
- n. Boundaries of land area in process of being restored, and indicate acreage.
- o. Boundaries of land area being mined, and indicate acreage.
- p. Boundaries of land area to be mined, and indicate acreage.
- q. Setback lines as required by this ordinance.
- r. Locate any environmental sensitive areas as designated by the MDEQ.
- s. Boundaries of any man-made lakes, and indicate acreage of surface area.
- t. A complete narrative description of:
 - i. The materials and methods proposed to restore the topsoil, and the amount and type of plants or landscaping proposed to restore the finished elevations.
 - ii. The schedule of restoration activities from permit application year to completion, including starting and completion of final grading, topsoil replacement, and planting or landscaping by cell-unit.
 - iii. An estimate of current costs to complete the restoration of each cell-unit, and a total for all cell-units.
 - iv. The schedule for removal from the site of all mining, moving, processing, loading and transporting equipment, and any other items.
 - v. An estimate of current costs to complete the removal of the items in (4) above.

10. Reuse Plan

A narrative and graphic presentation including a site plan (drawing) prepared according to the following specifications showing the lot or lots on any portion of which mining, moving, loading, and shipping has been conducted or will be conducted, and including adjacent property within 200 feet of the lot boundaries,

drawn to the specifications listed within this subsection. The submission and review of a reuse plan shall not constitute either an application for zoning approval.

- a. Prepared by a professional community planner, dated, sealed, and signed.
- b. Scale of one (1) inch equals 200 feet or less.
- c. North point, scale, date, revision block.
- d. Adjacent public streets that provide access to site.
- e. Location of existing structures which would remain on site, if any, and location of existing structures which will be removed from site.
- f. Delineate 100-year flood plain boundaries.
- g. Final elevations at two (2) foot contours.
- h. Benchmark references.
- i. Locate any recorded easements or rights of way.
- j. Boundaries of lot or lots for which a permit is sought.
- k. Boundaries of adjacent properties within 200 feet of lot boundaries.
- l. Locate any barrier dunes or critical dune areas as designated by the State.
- m. Boundaries of any bodies of water, natural or man-made.
- n. Indicate existing adjacent land uses.
- o. Locate proposed buildings, structures, or other improvements, and indicate required setbacks.
- p. Locate proposed streets, drives, and parking areas.
- q. Locate proposed trees, shrubs and other landscaping.
- r. Locate existing and proposed water mains, sanitary sewer mains, and storm water drainage facilities, and appurtenances.
- s. Locate existing and proposed electric lines, natural gas mains, and telephone and cable television lines.
- t. A complete narrative description of:
 - i. Proposed land use or uses, which is or are compatible with the Township's adopted future land use plan.
 - ii. An estimate of the water, storm water, and sanitary waste effects for the proposed land uses.
 - iii. The calculation of the amount of storm water runoff from the site in its proposed use.
 - iv. An estimate of current costs to extend water mains to the site and provide common storm water and sanitary waste processing facilities, with appurtenances, in sufficient capacities to serve the proposed use.
 - v. The proposed schedule for implementing the proposed use described in (1) above

11. Vertical Aerial Photography

A vertical aerial photograph, printed at one (1) inch equals 200 feet from an original photograph negative at a scale no smaller than one (1) inch equals 1,000 feet shall be provided with the application. The area covered by the vertical aerial photograph shall include:

- a. All land covered by the current permit application
- b. All contiguous land that is, or has been used by the owner or operator for an extraction, treatment or storage.
- c. Land within 1000 feet of (a) or (b) above.
- d. All public roads that can provide access to the site.

B. Review and Approval of Permit Application

The Zoning Administrator shall be responsible for receiving and processing all applications for mineral removal permits. The Zoning Administrator shall accept for processing only applications which in the Zoning Administrator's opinion are compliant with the application requirements.

Upon receiving a complete application for a permit the Zoning Administrator shall process the application according to the following steps:

- 1. After completing his review of the application, the zoning administrator shall give a written report on the applicant's compliance with the requirements of this ordinance to the Planning Commission.
- 2. At the same time he submits his report and the application to the Planning Commission, the zoning administrator shall schedule a public hearing on the application by the Planning Commission. Notice of the public hearing shall be published in accordance with Article XXVIII, Section 28.03.
- 3. At the public hearing, the Planning Commission shall receive a presentation from the applicant regarding his application, and shall receive written and oral comments regarding the application and the effects of the proposed mineral removal upon persons and property within 300 feet of the proposed mining site and on the Township as a whole.
- 4. After the public hearing, the Planning Commission may request additional information from the applicant. After the public hearing and after receiving and considering any additional information, the Planning Commission shall either recommend approval of, recommend disapproval of, or make no recommendation pertaining to the permit application and shall transmit the permit application to the Township Board for final consideration.
- 5. The Township Board shall review any recommendation from the Planning Commission and shall consider the permit application for approval or disapproval.
- 6. If the Township Board does not approve the permit application, it shall advise the applicant in writing of its reasons for not approving the permit application.

7. If the Township Board approves the permit application, the Zoning Administrator shall issue a mineral removal permit to the applicant upon receiving the required performance guarantee in the amount established by the Township Board. The application and all documents, drawings, and plans submitted with the permit application shall be incorporated by reference into the permit issued by the Zoning Administrator.
8. If the person or firm authorized to conduct mineral removal operations and the owner of the mineral removal site are not the same person or firm, then the Zoning Administrator shall issue an authorized permit jointly to the operator and property owner.

C. Standards for Review

Standards for Planning Commission and Township Board review of a permit application are as follows:

1. The applicant's compliance with the operations, maintenance, performance, reclamation, and reuse standards as set forth in this Article XX.
2. The impact of mining, moving, processing, loading, and transportation on adjacent property.
3. The impact of mineral removal on the groundwater under the mining site and under adjacent property.
4. The creation of any public or private nuisance.
5. The adequacy of the plan for restoration of the site after mining is completed.
6. The adequacy of the plan for reuse of the site after mining is completed and the site is restored.
7. The spirit and intent of the Township's adopted future land use plan being preserved and promoted by the reuse plan.
8. The elimination of preferred future land uses for the land to be mined due to the proposed mineral removal.
9. The reasonableness of the applicant's schedule for completion of mining, completion of restoration of the site; and commencement of reuse of the restored site.
10. The financial burden placed upon the Township by the proposed mineral removal operation.
11. The commercial necessity of the proposed mineral removal operation.
12. The impact of the proposed mineral removal operations upon existing mineral removal operations in the Township.
13. Evidence that all necessary state permits have been acquired.
14. Acquisition of all required state and federal permits.
15. Special conditions which may need to be imposed with approval of an application to eliminate or mitigate any potentially adverse impacts upon adjacent property, on public services or facilities, or on the natural environment; to conserve natural resources or energy; to ensure that mineral removal operations will not create a

nuisance or unreasonably interfere with the enjoyment of life or property; or otherwise to protect the public health, safety and welfare.

D. Restoration Performance Guarantee

So as to assure faithful restoration of the natural resources area, the petitioner shall deposit with the Township Clerk a surety bond acceptable to the Township Board, or in lieu thereof, cash, a certified check or irrevocable bank letter of credit. The amount of such deposit shall be established by the Township Board based upon an estimate by the Township Engineer and shall be sufficient to finance restoration of the disturbed area. However, in no event shall the amount of the deposit be less than \$10,000.00 per acre of land, less any amount of a performance guarantee required of the Michigan Department of Environmental Quality, to be stripped or mined. This deposit shall be submitted by the petitioner prior to the issuance of any permit, and shall be held in escrow by the Township until restoration is completed and has been approved by the Township Board. So as to prevent undue hardship, the Township Board, may at its discretion, approve bonds for areas less than the total acreage applied for.

However, at no time shall any excavation be undertaken unless and until sufficient bond has been deposited to insure restoration of the areas to be disturbed.

In the event that the applicant has previously provided financial security for the same acreage equal or in excess of that required above pursuant to any applicable federal and/or State environmental statutes, regulations or orders, submission of financial security as required herein shall be waived.

In the event of deviation from an approved restoration plan, the Zoning Administrator shall notify the permit holder of a violation. Failure to correct said violation within 30 days shall automatically suspend any permits issued relating to the site in question and/or prevent the issuance of new permit until such time as the deviation has been corrected in keeping with requirements set forth by the Township Board. Appeals from a decision of the Zoning Administrator shall, in regard to an alleged violation, be directed to the Township Board. The Zoning Administrator may at his discretion extend the 30 day period for correction of violations if in his opinion a good faith effort to complete the correction has been made but such efforts have been frustrated by weather beyond the control of the permit.

E. Issuance of Mineral Removal Permit

Following review of the application the Township Board shall then cause to be prepared a permit to the applicant specifying in detail the terms and conditions of the permit all in accordance with the requirements of this Ordinance. The permit shall specify that the cost of periodic inspection of the site by qualified persons chosen by the Township Board, the cost of all tests, measurements and other monitoring and surveillance procedures. The cost of periodic reports to the Township Board and all other costs of administering the terms of the permit shall be paid by the applicant. Removal of resource material may begin only after the permit has been duly executed by the applicant and the Township.

F. Terminating of Mining

Termination of mining operations shall be any of the following:

1. The actual cessation of substantial mining activities for a continuous period of 12 months or,
2. The actual cessation of substantial mining activities with the intention of abandoning such activities, or
3. The actual cessation of substantial mining activities for a period of six (6) months with the revocation of the Michigan Department of Environmental Quality mining permit

G. Term of Permit and Renewal

A permit for such use shall be issued for a one (1) year period by the Township Board only after recommendation by the Planning Commission, and after holding the required public hearing, and determination that all Township requirements including those specified in this Ordinance are met. The applicant shall file for an annual review of the permit yearly which shall be granted by the Township Board unless the applicant has failed to comply with and/or violates the terms of the permit. Minor permit adjustments, if required after a permit has been issued, may be made by the Township Planning Commission.

H. Specific Operating Requirements and Terms of Permit

The following specific operation requirements shall apply to all mineral removal operations within the Township:

1. Sequence of Operations

No more than three (3) cell units (defined as a subunit of a mineral removal site as determined in size and location by the applicant, but which shall not exceed eight (8) acres in size) may be mined at one time. A cell that has been mined and re-vegetated but before the plant material has survived for one (1) full calendar year will be considered in interim status, of which only three (3) cell units may have such status at one time. After a cell-unit has been reclaimed, it may no longer be used in the mining operations, in any manner.

2. Initial and Final Site Restoration

All areas where minerals have been removed to the finished grade, as established by prior approval of the Township Board are required to be reclaimed, the topsoil replaced and stabilized so as to prevent erosion and the blowing of dirt, sand, and dust onto adjacent property, streets and highways. The reclamation, placement of top soil, planting of trees, grass or other suitable ground cover shall be made by the owner of the mineral removal operation to the end that erosion will be prevented, the blowing of dirt, sand, and dust eliminated, and the property restored so as to present as nearly as possible, except for

contour, its natural state before the mineral removal was begun. Such restoration, plantings and maintenance thereof shall be at the sole expense of the owner of the mineral removal operation. Failure to comply with the reclamation and maintenance of the land as herein above provided within a reasonable period of time, and after written notice to the owner, shall result in the revocation of the owner's permit to continue the removal of minerals or other soil resources in the Township of Almena. Upon issuance of the written notice of revocation, the Township shall utilize all legal means to restore the site including use of any security provided by the applicant.

For initial restoration of the surface and appropriate grass approved by the Planning Commission shall be used on the site in accord with the seed manufactures planning instructions (with appropriate fertilizer and irrigation, or an approved alternative, to within 10 feet of any water body that may be created.

For final restoration the planting of trees with appropriate fertilizer and irrigations (which shall be maintained until plantings are fully established) at an average density of one (1) tree per 225 square feet of upland restored areas selected from the following list of approved plant material list shall be included.

EVERGREEN TREES

(Minimum five (5) feet in height.)

1. Hemlock (*Tsuga canadensis*)
2. Red Pine (*Pinus resinosa*)
3. Eastern White Pine (*Pinus strobus*)
4. Jack Pine (*Pinus banksiana*)
5. Eastern Red Cedar (*Juniperus virginiana*)

SMALL TREES and WOODY SHRUBS

(Minimum four (4) feet in height.)

1. Flowering Dogwood (*Cornus florida*)
2. Gray Dowood (*Cornus foemina*)
3. Juneberry Bush, Serviceberry (*Amelanchier arborea*)
4. Hoptree (*Ptelea trifoliata*)
5. American Hornbeam (*Carpinus caroliniana*)
6. Common Witchhazel (*Hamamelis virginiana*)

EVERGREEN SHRUBS

(Minimum two (2) foot spread)

1. Canadian Yew (*Taxus canadensis*)
2. Common Juniper (*Juniperus communis*)
7. Blackhaw Viburnum (*Viburnum prunifolium*)
8. Mapleleaf Viburnum (*Viburnum acerifolium*)
9. Chokecherry (*Prunus virginiana*)
10. Wild Black Currant (*Ribes americanum*)

LARGE DECIDUOUS TREES
(Minimum eight (8) feet in height.)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. American Beech (<i>Fagus grandifolia</i>) 2. Big Tooth Aspen (<i>Populus grandidentata</i>) 3. Yellow Birch (<i>Betula alleghaniensis</i>) 4. Paper Birch (<i>Betula papyrifera</i>) 5. Red Maple (<i>Acer rubrum</i>) | <ol style="list-style-type: none"> 6. Sugar Maple (<i>Acer saccharum</i>) 7. American Hophornbeam (<i>Ostrya virginiana</i>) 8. American Linden (<i>Tilia americana</i>) 9. White Oak (<i>Quercus alba</i>) 10. Red Oak (<i>Quercus rubra</i>) 11. Black Oak (<i>Quercus velutina</i>) |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

3. Exiting the Site

The permittee not longer than 12 months after termination of the mining operation shall:

- a. Complete the site restoration in accordance with the last restoration plan submitted by the permittee and approved by the Township , and
- b. Remove all mining and other equipment from the site, above or below ground, or in, or over or underwater.

4. Setbacks

Setbacks shall conform to the following schedule. Setbacks may be varied by the Zoning Board of Appeals when the outer boundary of the property abuts a body of water. In granting the variance, the Zoning Board of Appeals shall establish a specific setback so as to secure public safety.

Equipment	From Property Lines	From Streets ROW
Mining	200=	200'
Moving	200'	200=
Processing	500'	1,000'
Loading	500'	1,000'

5. Structures and Equipment

No business, industrial structures, or commercial buildings, shall be erected without the prior approval of the Township Board, except where the mineral removal activity occurs

in a commercial or industrial district where such buildings are a permitted use. To reduce the effects of airborne dust, dirt, and noise, all structures and equipment for sorting, crushing, loading, weighing and other operations, shall be built no closer than 300 feet to any public street right-of-way or to any adjoining property in an agriculture / residential zoning district.

6. Noise and Glare

At no point on the boundary of the mineral removal site shall the sound pressure level of a sound emanating from any mineral removal and/or transport equipment any vehicles used on the site exceed 70 dB(A), except for warning devices emitting sounds for warning purposes as authorized by law. A decibel is defined as a unit of measure to express the magnitude of sound pressure and sound intensity, where the sound pressure level of a given sound is defined to be 20 times the common logarithm of the ratio of sound pressure to a reference pressure of 2×10^{-5} Newtons per meter squared; and dB(A) means the sound pressure level in decibels measured in the A scale of a standard sound level meter having characteristics defined by the American National Standards Institute.

As permitted by law, presence detectors that prevent warning devices from emitting sound when there is no object behind the vehicle can be used.

The light source from any lighting fixture associated with the mineral removal, processing, and transport equipment and any vehicles used on the site shall be shielded or directed away for adjacent property to hide the view of the of the light source.

7. Frontage and Access

Each tract of land for extraction uses shall have a minimum frontage on a state or county all weather road approved for such use as designated truck routes for access to the site by the Van Buren County Road Commission and/or Michigan Department of Transportation of at least 150 feet.

A mineral removal operation, if the tract has no frontage but is fronted by an active mineral removal operation, if written permission for access to major or secondary thoroughfare is first secured from owner in fee and lease holder, if any, of said frontage property, shall be considered to have satisfactory frontage.

8. Fencing

Any excavation which results in, or produces for a period of one (1) month, collections of water or slopes as described below shall be subject to the following safety requirements.

Where slopes steeper than 30 degrees exist for a period of one (1) month or more, access to such slopes shall be barred by a chain link fence or similarly effective barrier at least six (6) feet high; at least 50 feet outside the edge of the excavation with suitable gates controlling access to the excavation area.

Where collections of water are one (1) foot or more in depth for any period of one (1) month or more, and occupying an area of 200 square feet or more, access to such collections shall be similarly fenced, as required above for slopes.

In those instances where the extraction operation is situated in marginal land areas consisting of swamp land, or is bounded by natural bodies of water, the fence shall be required only on those sides accessible to public right-of-ways or as the Township Board may determine as requiring fencing so as to secure safety. Township Board may require the posting of signs "KEEP OUT DANGER" as needed.

9. Screening

All operations, excavation, equipment and stockpiles shall be reasonably screened from view from adjacent property by well maintained, fences, trees and shrubs or berms. Residential uses and public streets adjacent to a mineral removal site shall be screened from mineral removal operations with a minimum six (6) feet high screen. Acceptable screening methods are raised earth berms, coniferous trees, fences that provide 80% solid visual barrier, and natural topography.

10. Access Roads

All private access roads shall be treated so as to create a dust-free surface for a distance of 300 feet from any public access road, regardless of the zoning district in which the site is located. If the access road is located within 300 feet of a residence, the access roads shall be treated so as to create a dust-free surface for a distance of 300 feet for the residence.

11. Slopes

Finished slopes of the banks of the excavation shall in no event exceed a maximum slope of five to one (five (5) feet horizontal to one (1) foot vertical) and where ponded water results from the operations, this slope must be maintained and extended into the water to a depth of five (5) feet.

Said slope requirements shall be met as the work in one section of the excavation proceeds, and the time for completion of said slopes shall not extend beyond one (1) year's time from the date of beginning of the excavation operation, provided that the Township Board may extend the above one (1) year period to such longer period as is satisfactory under the circumstances.

All changes in the natural contour of the land during mining operations shall be maintained as safe for any person having reason to be in the area of mining activity and for all children who might trespass upon the premises. The owner shall be responsible for taking such protective steps and measures as may be necessary to satisfy and secure public safety.

All topsoil shall be removed and stockpiled on the site and following excavation operations shall be spread over the affected area. Such replacement of topsoil shall be made immediately following the termination of excavating operations. So as to prevent erosion of slopes, all replaced top soil shall immediately be planted with native dune grass or other plant material acceptable to the Township Board. All plant materials shall be maintained in thriving condition by the applicant for at least one (1) year after planting.

12. Erosion Control

An operator of a mineral removal operation shall prepare, submit for approval and conscientiously implement an erosion control plan designed to prevent the off-site blowing of dirt, sand, and dust which would be a nuisance to adjacent public or private property.

13. Explosives

The use of explosives shall be in accordance with the "Regulations for Storage and Handling of Explosives," as published by the Michigan State Police, Fire Marshall Division, East Lansing, Michigan.

14. Existing Vegetation

Trees and other vegetation shall not be stripped off dunes or hills prior to mineral removal so as to unnecessarily expose large areas of earth subject to wind erosion that will cause dirt, sand, and dust to be carried by the wind onto adjacent and adjoining properties or public or private streets and create a nuisance thereby. Insofar as it is practicable to do so, hills and dunes shall be bared or stripped in limited areas and only with the prior approval of the Township Board so as to limit and restrict bared areas to sections where active day to day mineral removal is being carried on, so as to avoid unnecessary erosions and blowing dirt, sand, and dust. The Township Board, may at any time after written notice to the owner and with or without a public hearing thereon, limit any and all further stripping of land or further stripping of trees and vegetation from lands or hills, until all areas previously bared are cleaned up, topsoil replaced and stabilized by plantings thereon.

15. Truck Traffic

All truck traffic shall be directed away from residential streets and traffic patterns shall have prior approval of the Township Board.

16. Restriction of Hours

Where operations are carried on next to residences and where noise created by earth moving machinery and trucks is such that the operation would unreasonably disturb the peace and tranquility of the occupants of such residences, the Township Board may require, as a condition of the issuance of a permit for mineral removal, that the operations be limited to the hours between 8:00 a.m. to 7:00 p.m. daily, except for Sunday, or such other reasonable restrictions as to time of operation that might be necessary, in the discretion of the Township Board, to preserve the peace and quiet of the neighborhood.

Under emergency circumstances, the hours of operation may be modified for a temporary period not to exceed 14 days, upon receipt of approval of the Township Supervisor.

17. Spillage on Public Streets

The applicant shall be required to prevent mineral and/or other soil from being deposited on the public right-of-ways in the Township and shall be responsible for cleaning up spillage on said right-of-ways, when due to the operation of the Permittee, including spillage by any person, whether an employee of the applicant or not, hauling anything out of the permit area.

18. On-Site Burning and Fires

Open burning or fires on any mineral removal site is prohibited.

19. Waste

No trash, rubbish, junk, refuse of any kind, inoperable vehicles or equipment, building materials, or unwholesome substances shall be permitted to accumulate at any mineral removal site, unless the same is contained in a dumpster, or, in the case of inoperable vehicles or equipment, unless they are housed within a building or structure or are enclosed completely by an opaque fence which is erected and maintained in compliance with Township ordinances.

Building materials on a mineral removal site to be used as part of construction on the site for which a Township building permit has been issued, are not considered waste.

20. Access by Township Representatives

Representatives of the Township shall at all reasonable times have the right to enter and inspect the property for purposes of monitoring work and implementing and enforcing the provisions of the Township ordinances and this permit. All inspections and visits will be conducted in such manner as to not interfere unnecessarily with normal work schedules.

Section 20.04 - Validity of Existing Permits and Amendment of Permits

Any permit issued by another governmental agency for mineral mining, processing and restoration prior to the adoption of the Zoning Ordinance shall be deemed to have been issued a permit with identical provisions by the Township of Almena, at the adoption of the Ordinance. No changes in the extraction, processing or restoration or other change in the provisions of an existing or subsequently approved permit shall be made unless approved by the Township Board and/or the Planning Commission in accordance with the provisions of this Ordinance. This includes changes in the permitted, or required activities on land owned by the petitioner and any other adjacent or nearby land.

Upon application of a permit holder, any mining permit issued under this Ordinance may be amended by the Township Board in accordance with the following procedure:

The permit holder shall submit a written application for permit amendment clearly delineating the proposed amendment(s) thereto.

The written application shall include where applicable, items required by Section 20.03.A of this ordinance.

Upon review of the said application, the Township Board shall determine whether the specific operation requirements as set forth in Section 20.03.H are satisfied by the proposed amendment.

Upon a determination of such satisfaction, the Township Board will issue an Amended Permit reflecting such changes as requested or as mutually agreed upon by the parties.

Upon a determination by the Township Board that the proposed amendment fails to meet the requirements of Section 20.03.C, paragraphs (1) through (15), the permit holder may, after 30 days, make a renewed submission to the Township Board for amendment with modification to meet the said requirements. Such renewed application shall be submitted in the same manner as the first amendment application.

Section 20.05 - Appeal From Denial of Permit or Submission for Amendment

In addition to whatever procedures are set forth in this ordinance, an applicant whose application for Permit or Permit Amendment or request for return of restoration security as required by 20.02 B is denied by the Township Board may directly appeal from such decision to Circuit Court for the County of Van Buren.

Section 20.06 – Minor Excavation and Earth Change. The purpose of this section is to allow for minor excavations and movement of earth when the intent is not for the removal of minerals for commercial sales as regulated by the other sections of this Article. Such operations shall occur in an area less than five (5) acres in size and shall not exceed 600 cubic yards unless performed in conjunction with the immediate development and use of the property for construction or for agricultural purposes. While no action by the Township shall be required for such activity, a permit may be required from Van Buren County for soil erosion.

Section 20.07 - Additional Penalties for Violation of the Provisions of this Section

In addition to any other penalties or relief available under township ordinance or law, the Township, upon a violation of this ordinance, and upon notice of violation of this ordinance which has been personally served upon the applicant or assignee, or an employee of the applicant, who has administration or management authority, the Township may seek appropriate relief including, but not limited to, stop work orders, injunctive relief, restoration, actual costs and maximum fines as allowable by law.

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**ARTICLE XXI
HOME OCCUPATIONS**

Section 21.01 - Intent.

It is the intent of this Article to recognize that certain commercial activities can be operated within a residential dwelling with no or minimal adverse impact upon surrounding neighbors. Such minor home occupations may be carried out within a principal permitted use in an agriculture / residential district when specifically listed as an accessory permitted use for the district in which the property is located. Minor home occupations are characterized as computer and telephone-based businesses where there is no or limited customer or client traffic into the home occupation. Examples of minor home occupations include, but are not limited to, real estate agent, insurance sales agents, consultants, financial planners, stockbrokers, instructors of a craft or fine art such as a teacher with musical or dancing instruction limited to six (6) pupils at a time, etc.

It is also recognized that the conduct of other business operations as home occupations are desirable to selected occupants of dwellings in agriculture / residential districts, however, such business activities may cause increased traffic, noise, outdoor storage requirements, etc., in the residential area but if controlled, may be compatible with other residents. Major home occupations are characterized as those businesses which provide customer or client services on pre-established or published schedule of store or services hours or provide such services on a regular scheduled basis in the residence. Example businesses include but is not limited to the sale of goods or the provision of services and includes, but are not limited, to sale of health products and vitamins, cookware, novelty items (typically made by the resident of the home occupation), barber and beauty shops, massage and physical therapy centers, doctor and dentist offices, offices of lawyers and similar professions, and other similar business. Where allowed as special uses approved by the Planning Commission reasonable conditions may be placed on the business operation to assure compatibility of the business operation with immediate residential area needs.

Section 21.02 - Minor Home Occupation Permitted By Right.

A minor home occupation meeting the definition and standards of this ordinance shall be permitted by right only in those districts where stated. The standards are as follows:

- A. Minor Home occupations shall be allowed only in principal use single-family dwellings.
- B. No person other than members of the family residing on the premises shall be engaged in such occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in conducting the home occupation.

- D. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conducting of such home occupation other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- E. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in any agricultural / residential zoning district and any need for parking generated by the conducting of such home occupation shall not exceed normal single family parking requirements.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- G. Pursuant to the terms of the Michigan Zoning Enabling Act, a single family residence may be used by an occupant of that residence to give instruction in a craft or fine art. Such activities are exempted from the definition of home occupation pursuant to the terms of state law.

Section 21.03 - Special Land Use Permit Required for Major Home Occupations.

A major home occupation meeting the definition and standards of this ordinance shall be permitted upon issuance of Special Land Use Permit by the Planning Commission in only those districts where stated. The standards are as follows:

- A. No person other than members of the family residing on the premises and up to four (4) additional persons living elsewhere shall be engaged in such occupation.
- B. The use of the dwelling unit and/or accessory use building for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and the use of the residence shall not occupy more than 25% of the floor area of the dwelling unit, and any accessory use shall not be greater than 50% of the floor area of the residence.
- C. There shall be no change in the outside appearance of the building or accessory use structure or other visible evidence of the conducting of such home occupation other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal or accessory use building.
- D. No traffic shall be generated by such home occupation of a volume that would disrupt the immediate residential area, and any need for parking generated by the conducting of such home occupation shall be met by the provision of off-street parking in an amount prescribed in Article XVIII - Off-Street Parking and Loading for the commercial business

activity to be conducted as the home occupation in the side or rear yard located to the rear of the front building line of the residential building or in accordance with any Special Land Use permit issued by the Planning Commission.

- E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises that causes a change of transmission voltage off premises.
- F. Major home occupations include, but are not limited to:
 - 1. Day Care Centers, when operated as a home occupation.
 - 2. Bed & Breakfast Operations, when operated as a home occupation.
 - 3. Sale, manufacture and assembly of craft goods made on premise.
 - 4. Automobile repair services.
 - 5. Tax preparer.
 - 6. Beautician and/or barber.

Section 21.04 - Prohibition of Ammunition and Ammunition Materials.

Use, storage or sale of ammunition or the materials necessary for the manufacture of ammunition is prohibited in a minor or major home occupation.

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**ARTICLE XXII
SITE PLAN REVIEW PROCEDURES**

Section 22.01 - Purpose

The purpose of this Article is to establish uniform requirements of procedure for all developments in the Township so that the provisions of this Zoning Ordinance can be equitably and fairly applied to all persons seeking to add to the existing development; and so that both those developing property and the responsible Township officials can be assured that compliance with the Zoning Ordinance is both possible and correct prior to the issuance of a Zoning Compliance Permit and the starting of construction.

Section 22.02 - Developments Requiring Site Plan Approval

The following land, building and structural uses require “Site Plan Approval”:

- A. All principal uses and their accessory uses in all Zoning Districts, except those specified in Section 22.03.
- B. All special uses and their accessory uses in all Zoning Districts.
- C. All principal and special uses and their accessory uses in a Planned Unit Development.
- D. Condominiums and land subdivisions, as defined in the Township’s Land Subdivision Regulations for Platted Subdivisions and Lot Splits, shall be approved as described in that Ordinance. Lot splits that create less than five new lots from a parent lot over a ten year period, or for which any of the resulting lots are greater than 10 acres, and therefore, are not subject to the Land Subdivision Regulations for Platted Subdivisions and Lot Splits, may be approved administratively by the Township Supervisor or his or her designee.

Section 22.03 - Developments not Requiring Site Plan Approval

- A. Single family homes and their accessory uses in all agricultural / residential zoning districts.
- B. General or specialized farming and forestry and their accessory uses and roadside stands in the AG, AGLD or AGMD Zoning Districts.

Section 22.04 - Role of the Zoning Administrator

The Zoning Administrator shall not issue a Zoning Compliance Permit for construction of or addition to, any use until a final site plan has been approved by the Township Board and is in effect. A use of land requiring site plan review and approval, not involving a building or structure, shall not be commenced or expanded until a final site plan has been approved by the Township Board and a Zoning Compliance Permit has been issued by the Zoning Administrator.

Section 22.05 - Site Plan Approval Required Prior to Starting Construction or Use of Land

No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires site plan approval, until a final site plan is approved and a Zoning Compliance Permit issued, except as provided in this Article.

Section 22.06 - Preliminary Conference on Proposed Site Plan

An applicant may request a meeting with the Planning Commission for the purpose of reviewing and discussing a proposed preliminary site plan for the purpose of determining the feasibility of the project which the site plan represents. The request may be put on the agenda of a regularly scheduled meeting or on the agenda of a special meeting at the request of the applicant who shall pay all expenses for such a special meeting.

Section 22.07 - Preliminary Site Plan Requirements

- A. **Application:** Any person may file a request for preliminary site plan approval by filing required forms with the Zoning Administrator, payment of the review fee, and submittal of at least 10 copies of a preliminary site plan drawing(s) and other documents. Upon receipt of such application, the Zoning Administrator shall transmit the preliminary site plan drawing(s) and other documents to the Planning Commission.

- B. **Information Required for Review:** Every preliminary site plan submitted under this Article shall contain information required by Township regulations for site plan review, as specified in this Section.
 - A. **Submittal Requirements:** 10 copies of each submittal for site plan review shall be submitted to the Planning Commission for each application and site plan. The application shall, at a minimum, include the following information. The Planning Commission may waive any of the following where the information is deemed unnecessary for the review, and may at their discretion require the submittal of specifically needed information in addition to the following:
 - a. The applicants name, address, and phone number in full.
 - b. Proof of property ownership and whether there are any options on the property or liens against it.
 - c. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf with the power of attorney to represent the owner in writing.

- d. The name and address of all owner(s) of record if the applicant is not owner of record (or firm or corporation having a legal or equitable interest in the land) and signature(s) of the owner(s).
 - e. The address and tax parcel number and legal description of the property.
 - e. Name of Project.
 - g. A complete project description, including total number of structures, units, offices, square feet of building space, number of parking spaces and employees, the amount of recreation and open space, and related pertinent information as otherwise required by this Ordinance.
 - h. Name and address of the developer (if different from the applicant).
 - i. Name and address of the engineer, architect, land surveyor, landscape architect or other qualified designer of the project.
 - j. A vicinity map drawn at a readable scale with North point indicated, which will satisfactorily be used to determine the exact location of the project property or site.
 - k. The gross and net developable acreage involved in the project.
 - l. Existing land uses, zoning classification and existing structures on the project and parcel and adjoining parcels including buildings, floor plans (footprint), number of floors, number of bedrooms in all structures, as applicable.
 - m. Proposed project completion schedule and development phases, if not to be completed as one (1) phase.
 - n. Any use and occupancy restrictions, and if a condominium project, any maintenance provisions for any general and limited common elements as shall be contained in the Master Deed.
- B. Site Plan Requirements:** The site plan shall consist of an accurate, reproducible drawing at a readable and measurable scale of one (1) inch equals 100 feet or less, in seven (7) copies, showing the site and all land within 150 feet of the site which depicts the following:

- a. Property lines, dimensions, legal descriptions, setback lines and monument locations to be prepared as a Plot of Survey by a Land Surveyor licensed to practice in the State of Michigan.
- b. Existing topographic elevations at two (2) foot contour intervals, proposed grades and direction of surface drainage and drainage way flows.
- c. The location and type of existing soils on the site and certification of soil borings.
- d. Location and type of significant areas of existing vegetation, wetlands, rock outcroppings, slopes of more than 10%, major stands of trees, large individual trees of two (2) feet or more in diameter and areas of woodland vegetation (combination of trees, shrubs and other vegetation).
- e. Water courses and water bodies, including lakes, ponds, rivers, streams, flood plains and wetlands, county drains, and manmade surface drainage ways.
- f. Location of existing and proposed buildings and their intended uses as well as the length, width, and height of each building, including front, inside and rear elevations.
- g. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, signs, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening, where applicable.
- h. Location of existing public roads, right-of-ways and private easements of record.
- i. Location of abutting roads and proposed alignment and gradient of roads, drives, curb cuts and access easements serving the development.
- j. Location and design of all access ways barrier free, including parking areas (including indication of all spaces and type of surfacing), fire lanes and all outdoor lighting.
- k. Location, size, and characteristics of all off-street loading and unloading areas.
- l. Location and design of all sidewalks, walkways and bicycle paths.

- m. Location and design of public or common water supply lines or on-site wells, including fire hydrants and shut off valves, and the location and design of public or common waste water lines, cleanout locations, connection points and treatment systems, or on-site septic tank and tile field systems.
- n. Location of all other utilities on the site including but not limited to natural gas, electric power, cable TV and telephone.
- o. Location of proposed public or common open spaces and facilities if applicable.
- p. Location, design, size and construction specifications of all signs and advertising features.
- q. Location, design and specifications for all fences, walls, berms and other screening features with cross sections.
- r. Location, landscape plans and specifications for all proposed landscaping, screening and other buffering features for each landscape feature and planting material, the proposed size plants at time of planting and of all existing vegetation to be retained on the site shall be indicated.
- s. Method for all solid waste disposal.
- t. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities and regulations.
- u. Identification of any significant site amenities or unique natural features.
- v. Identification of any significant scenic views onto or from the site to or from adjoining area.
- w. North arrow, scale and date,
- x. Seal of the Michigan registered engineer, architect, landscape architect, surveyor, or planner who prepared the site plan.
- y. All required permits, approvals and reviews in written form from all Federal, State, County, Township, School and other public agencies and

officials under Federal, State, County or local laws and administrative rules and regulations.

- C. **Planning Commission Action:** The Planning Commission shall study the plan and shall recommend the approval with conditions or approval or denial of the preliminary site plan to the Township Board. If denial is recommended, the Planning Commission shall prepare a report setting for the conclusions of its study and the reasons for its denial. **Revised 09-14-2016**

- D. **Township Board Action:** Following receipt of the Planning Commission recommendation, the Township Board shall made a final decision on the Preliminary Plan whether to approve, approve with conditions, or deny the Preliminary Site Plan.

- E. **Effect of Approval:** Approval of a preliminary site plan by the Township Board shall indicate its acceptance of the proposed layout of buildings, roads and drives, parking areas, and other facilities and areas, and of the general character of the proposed development. The Township Board may, with appropriate conditions attached, authorize issuance of a grading permit by the Zoning Administrator on the basis of an approved preliminary site plan. The conditions to be attached to a permit issued for grading and foundation work may include, but not necessarily be limited to, provisions for control of possible erosion, for excluding the Township from any liability, if an acceptable plan is not provided, and for furnishing a financial guarantee for restoration of the site if work does not proceed. Site plan approval requires that the applicant meet all of the requirements of the Michigan ASoil Erosion and Sedimentation Control Act,@ Public Act 347 of 1972, MCL 282.101 et seq.

- F. **Expiration and Extension of Approvals:** Approval of a preliminary site plan shall be valid for a period of six (6) months from the date of approval by the Township Board and shall expire and be of no effect unless an application for final site plan approval is filed with the Zoning Administrator within that time period. A six (6) month extension may be granted upon written request of the applicant and approval of the Township Board. The approval of the preliminary site plan shall also expire and be of no effect one (1) year after approval of a final site plan, unless a Zoning Compliance Permit has been obtained for development shown on the approved final site plan within that time period.

Section 22.08 - Final Site Plan Requirements

- A. **Application:** Following approval of a preliminary site plan, the applicant shall submit 10 copies of a final site plan as well as other data and exhibits hereinafter required to the Zoning Administrator, the review fee, and a completed application form. The Zoning

Administrator, upon receipt of the application, and any upon payment of any fees and expenses, shall promptly transmit the final site plan to the Planning Commission.

- B. **Information Required for Review:** Every final site plan submitted for review under this Article shall contain information as required by Township regulations for site plan review, as specified in Section 22.07.B and Article XXIII - Special Uses and Article XV - Planned Unit Developments.
- C. **Planning Commission Action:** The Planning Commission shall study the final site plan and recommend the approval with conditions or approval or denial of the final site plan if it is consistent with the previously approved preliminary site plan. The Commission may suggest or require change in the plan if there is need to comply with the Zoning Ordinance. Revised 09-14-2016
- D. **Township Board Action:** Following receipt of the Planning Commission recommendation, the Township Board shall made a final decision on the Preliminary Plan whether to approve, approve with conditions, or deny the Preliminary Site Plan.

Upon Township Board approval of the final site plan, the applicant and owner(s) of record, and the Township Clerk or other designated Township official, shall sign the approved plan. The Township Board shall transmit one (1) signed copy of the approved final site plan to the Zoning Administrator, Township Clerk, the applicant and Planning Commission.

If the final site plan is disapproved, the Township Board shall document the reasons for disapproval in its official minutes.

- E. **Effect of Approval:** Approval of a final site plan authorizes the Zoning Administrator to issue a Zoning Compliance Permit. Approval shall expire and be of no effect after six (6) months following approval by the Township Board, unless a Zoning Compliance Permit is applied for and granted within that time period. Approval of the final site plan shall expire and be of no effect one (1) year following the date of issuance of a Zoning Compliance Permit unless authorized construction has begun on the property in conformance with the approved final site plan. One (1) extension of six (6) months from the date of approval of the final site plan for good reason, as submitted by the applicant and with the approval of the Township Board may be granted to the applicant.

Section 22.09 - Criteria for Site Plan Review

In reviewing a preliminary or final site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with the regulations and objectives of this Ordinance and shall endeavor to assure that they conform to the following criteria:

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to the topography of the site, the size, shape and type of the lot, the character and use of adjoining property and the type and size of existing and proposed buildings and structures. The site shall be so developed as not to impede the normal and orderly planned development or improvement of surrounding and adjacent property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing vegetation and soil removal, and by topographic grading modifications which shall result in maximum harmony with adjacent areas.
- C. Special attention shall be given to proper site drainage so that storm water flow will not adversely affect neighboring properties. (See Section 17.35.)
- D. The site plan shall indicate the provision of reasonable visual and sound privacy for all building and structural units located on the site. Fences, walks, barriers, and landscaping shall be used in an appropriate manner, for the protection and enhancement of property both on site and adjacent.
- E. All buildings and areas shall be so arranged as to permit emergency vehicles access by some practical means to all parts of the site.
- F. Every structure shall have access to a public road, drive, walkway, and other areas dedicated to common use.
- G. A pedestrian circulation system shall be provided which is separated from the vehicular circulation system.
- H. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from agricultural / residential districts or public thoroughfares, shall be screened by a vertical screen consisting of berms, structures or plant materials and shall be no less than that required in this Ordinance.
- I. Exterior lighting shall be arranged so that the source of illumination is deflected away from adjacent properties and is not visible to traffic traveling on adjacent streets,
- J. Site plans shall conform to all applicable requirements of State and Federal statutes rules and regulations and approval may be conditioned on the applicant receiving required State and Federal permits before final site plan approval is granted,

- K. Site plans shall fully conform to the surface water drainage standards of County and State laws.
- L. Site plans shall fully conform to the driveway and traffic safety standards of the Michigan Department of Transportation and/or the County Road Commission.
- M. Site plans shall fully conform to applicable fire safety and emergency vehicle access requirements of the Michigan Construction Code and/or the applicable local Fire Code and Fire Chief with jurisdiction in the part of the Township in which the site is located.
- N. Site plans shall fully conform to the County Soil Erosion and Sedimentation Control Ordinance requirements.
- O. Site plans shall fully conform to the requirements of the Michigan Department of Health and the County Health Department.
- P. Utility Service: Electric power and telephone distribution lines shall be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to adjacent properties and the site. The proposed method of water supply and wastewater disposal from all buildings shall be indicated. All utility installation shall be carried out in accordance with the Standard Rules and Regulations of current adoption of the Michigan Public Service Commission.
- Q. Advertising Features: The size, location and lighting of all permanent signs and outdoor advertising structures or features shall be consistent with the requirements of Article XIX - Sign Regulations.
- R. Special Features: Outdoor storage areas, outdoor machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to setbacks, screen plantings or other screening methods required to prevent their being publicly visible and incongruous with the existing natural and developed uses and the environment and the uses of adjacent and surrounding properties.
- S. Master Plan: The site plan shall satisfy the intent of the Master Plan designation for the subject property and the goals and objectives as stated in the Master Plan.
- T. Additional Requirements: All other standards and requirements of this Article shall be met by site plans presented for review.

Section 22.10 - Modification Procedure

An applicant may, at his discretion and risk, combine a preliminary and final site plan in the application for approval. In such a situation, the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Commission shall have the discretion and the authority to require submittal of a preliminary site plan separate from a final site plan where, in its opinion, the complexities and/or scale of the site of the proposed development so warrants the need to require both the preliminary and final site plan review and approval procedures.

Section 22.11 - Amendment of an Approved Site Plan

A site plan maybe amended upon application and in accordance with the same procedures for approval of a final site plan, and Section 22.08 herein, for a final site plan, specifically Section 22.07 and 22.08. Minor changes in a preliminary site plan may be incorporated in a final site plan without amendment to the approved preliminary site plan at the discretion of the Township Board. The Township Board shall also have authority to determine if a proposed change requires an amendment to the approved site plan.

Section 22.12 - Modification during Construction

All site improvements shall conform to the approved final site plan. If the applicant chooses to make any changes in the development in relation to the approved final site plan, the applicant shall do so at his own risk, without any assurance that the Township Board will approve such changes. It shall be the responsibility of the applicant to notify the Zoning Administrator and the Township Board in writing of any such changes. The Zoning Administrator or the Township Board may require the applicant to correct the changes so as to conform to the approved final site plan.

Section 22.13 - Phasing of Development

The applicant may, at his discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall clearly indicate the location, size, and character of each phase. A preliminary and final site plan for each phase shall be submitted for approval.

Section 22.14 - Inspection

All underground improvements, such as utilities, sub base and base installations for roads, drives, walls, parking lots, and similar improvements shall be inspected by the Township Engineer, or other person designated by the Township Board, and accepted by action of the Township Board prior to covering. The Zoning Administrator shall be responsible for the inspection of all site improvements for conformance to the approved final site plan. The applicant shall be responsible for requesting appointments for making the necessary inspections. The Zoning Administrator shall notify the Township Board, in writing, when a development for which a final site plan was approved does not pass inspection with respect to the approved final site plan, and shall advise the Board of steps to be taken to achieve compliance. In such cases, the Zoning Administrator shall periodically notify the Township Board of progress towards compliance with the approved final site plan, and when and if compliance is achieved. The fee schedule established by the Township

Board shall include a special schedule of fees to cover large and costly projects so as to adequately cover the costs of the Township inspections of such projects as required under the provisions of this Ordinance.

Section 22.15 - Fees

Fees for the review of site plans and any expenses associated with inspections incurred by the Township as required by this Article shall be established as part of the fee schedule established by resolution by Township Board.

Section 22.16 - Financial Guarantees

Bonds, cash deposits, irrevocable bank letters of credit, or other acceptable forms of financial security shall be required of the applicant after a final site plan is approved and prior to issuance of a Zoning Compliance Permit for certain site improvements such as, but not limited to, roads or drives, parking lots, grading, landscaping, and buffers. A schedule for such financial security shall be established by resolution of the Township Board, and shall be administered by the Zoning Administrator. Such financial security may be released in proportion to work completed and approved upon inspection by the Zoning Administrator as complying with the approved final site plan. In the event that the applicant shall fail to provide improvements according to the approved final site plan, the Township Board shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited financial security, or may require performance by the bonding company.

Section 22.17 - Violations

The approved final site plan shall regulate development of the property. Any violation of this Article, including any improvement not in conformance with an approved final site plan, shall be deemed a violation, and shall be subject to the penalties of this Ordinance.

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**ARTICLE XXIII
SPECIAL USES**

Section 23.01 - Purpose

The formulation and enactment of this Zoning Ordinance is based upon the division of the Township into zoning districts, each of which include permitted uses which are mutually compatible. In addition to such permitted uses in districts, however, it is recognized that there are certain specific or unique uses which may be necessary or desirable to allow in definable locations in certain districts; but, which on account of their actual or potential impact on neighboring uses or public facilities, need to be more carefully and specifically regulated with respect to their location and requirements for the protection of the permitted uses by right in a district. Such uses, on account of their unique developmental needs or the nature of their uses and activities offered, may have to be established in a district in which they cannot be reasonably allowed as an unconditional permitted use.

Section 23.02 - Authority to Grant Special Use Approvals

The Township Board shall have the authority to grant Special Use Approvals, subject to the review and recommendation by the Planning Commission and subject to such conditions of design and operations, safeguards and time limitations as it may determine for all special uses conditionally permitted in the various districts of this Ordinance.

Section 23.03 - Application and Fees

Application for any special use permitted under the provisions of this Ordinance shall be made to the Zoning Administrator by 1) filing an application, 2) submitting required data, exhibits and information; and 3) depositing the necessary fee in accordance with the Township schedule of fees.

An application for a special use approval shall be processed in the following manner:

- A. The application and required site plan shall be filed by the applicant not less than 14 days prior to regular monthly meeting of the Planning Commission.
- B. The Zoning Administrator shall forward the application and supporting data to the Township Planning Commission.
- C. The Township Planning Commission shall review the proposed development as presented in the application and in terms of the specifications established in this Ordinance, and hold a public hearing on the Special Use requested by the Applicant.

Section 23.04 - Data, Exhibits and Information Required in Applications

An application for a special use permit shall contain (a) the applicant's name and address in full, (b) a notarized statement that the applicant is the owner involved or is acting on the owner's

behalf, (c) the address of the property involved, (d) an accurate plot and topographic survey and site plan of said property showing the existing and proposed changes in grading and drainage and the location and types of all buildings and structures and site improvements to be constructed (as deemed necessary by the Zoning Administrator), and their uses and (e) a statement and supporting data, exhibits, information and evidence regarding the required findings set forth in this Ordinance, including the requirements for Site Plan Review per Article XXII and the Application for a Zoning Compliance Permit per Article XXVI, Section 26.05.

Section 23.05 - Public Hearing and Notices and Procedure

Notice of public hearing and distribution of the notice shall comply with Article XXVIII, Section 28.03.

Section 23.06 - Procedure for Reviewing Special Land Uses

The Township Planning Commission, after public hearing procedures, may recommend approval for a special use subject to the final approval of the Township Board. A copy of the decisions of both, with any conditions of approval or reasons for rejection shall be sent promptly to the Zoning Administrator and to the Applicant.

Section 23.07 - Application of Condition and Safeguards

The Township Planning Commission and Township Board may impose such additional conditions and safeguards deemed necessary to protect the general welfare, for the protection of individual property rights on nearby parcels, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the special use is proposed will be observed. Special use approvals may be issued for specific time periods as recommended by the Township Planning Commission, subject to the final approval of the Township Board.

Section 23.08 - Jurisdiction of Zoning Board of Appeals

The decision of the Township Board on a Special Use Permit may be appealed to the Almena Township Zoning Board of Appeals in accordance with the procedures provided in Section 604 of the Michigan Zoning Enabling Act (PA 110 of 2006, as amended). The Zoning Board of Appeals may also grant variances from specific requirements in the Zoning Ordinance required for special use permits upon request.

Section 23.09 - Required Standards and Findings for Recommendations to the Township Board

The Planning Commission shall review the particular circumstances and shall use the following standards in preparing its recommendation to the Township Board

A. General Criteria

1. Will be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance and the Zoning district in which it is to be located.

2. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance and activities with the existing or intended character of the general vicinity.
3. Can be served adequately by essential on site or public utilities, facilities and services; such as, water supply, wastewater disposal, highways, roads, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed special use shall be able to provide adequately any such service.
4. Will not be hazardous or disturbing to existing or future neighboring uses.
5. Will not create excessive additional requirements at public cost for public facilities, utilities and services.
6. Will meet all of the requirements specified in this Ordinance for the Special Land Use requested, as well as all other Township, County, State and Federal requirements.

B. Specific Requirements of the Review Process

All Special Uses in all zoning districts shall be processed and reviewed in accord with the following procedure:

1. **Pre Application Meeting** - The applicant may request a preliminary meeting with the Zoning Administrator to discuss the proposal, design elements, ordinance requirements etc. (optional, but recommended).
2. **Submission of Application** - The applicant shall submit the application in accord with the schedule set forth in Section 23.03 with the required fee and 10 copies of the proposed site plan to the Zoning Administrator, who in turn reviews the application for compliance with the terms of this ordinance and presents the application and his report to the Planning Commission.
3. **Establish Public Hearing Date** - The Zoning Administrator in consultation with the Planning Commission Chair shall establish a public hearing date, and take action to provide proper public notice as stipulated in Section 28.03.
4. **Public Hearing** - On the appointed date and time the Planning Commission shall conduct the public hearing on the proposed Special Use application and site plan.
5. **Planning Commission Review and Recommendation** - The Planning Commission upon receipt of the application, site plan and Zoning Administrators

report and after the public hearing is conducted shall review the application for conformance with Ordinance requirements

6. **Changes to the Application and Site Plan** - If changes are required or ordered by the Planning Commission the applicant shall be required to make such changes and submit 10 copies of the revised application and site plan to the Planning Commission prior to the Planning Commission further processing the application,
7. **Action of the Planning Commission** - Upon completion of the Planning Commission review and upon completion of the public hearing, the Planning Commission may consider a motion recommending to the Township Board the approval, approval with conditions, or denial of the Special Use application and site plan request. The Planning Commission may also table a request to allow verification, compilation or submission of additional or supplemental information or to address other concerns or issues.
8. **Action of the Township Board** – The Township Board shall take final action on the special land use request. They may approve, deny, approve with conditions, or table the request if more information is required. The decision on the special land use shall be incorporated into a statement of findings and conclusions that specifies the basis for the decision and any conditions imposed.
9. **Communication of Decision to Applicant** - Upon action of the Township Board, the Township Clerk shall take action to send the Applicant a Special Use Permit and a copy of the minutes of the meeting where it was approved or in the case of denial a letter indicating the Township Board action also containing a copy of the minutes of the meeting. If the Township Board denies the Special Use request, the specific reasons in terms of what requirements in the Zoning Ordinance are not met shall be stated in the Township Board=s official minutes of record.

C. Review Standards and Criteria

The Planning Commission shall utilize and must find affirmatively that each of the following standards and criteria are met in their review of all Special Use requests:

1. All information, submittals and site plan standards as outlined in Article XXII - Site Plan Review Procedures, are hereby incorporated into this section and required to be met with regards to the site plans and supporting documentation submitted for Special Uses.
2. All design standards or criteria imposed on specific Special Uses elsewhere in this Ordinance shall be met.

3. The Special Use shall be in accordance with the objectives of the Master Plan for Land Use for the Township.
4. The Special Use shall be designed and located so that it is compatible with the surrounding properties, neighborhood and vicinity. At a minimum, this shall include:
 - a. Location of uses and activities to be conducted on the site;
 - b. Height and bulk of all structures and improvements;
 - c. Adjacent land uses;
 - d. Need for the proposed Special Use in the specific area of the Township;
 - e. Conformance with future land use plan for the area as adopted or maintained by the Planning Commission in its Master Plan;
 - f. Compatibility with the listed predetermined principal uses in the zoning district where the Special Use is requested to be located.
5. Ingress and egress for the Special Use shall be controlled to assure maximum vehicular and pedestrian safety, convenience and minimum traffic impact on adjacent roads and highways, drives and uses including, but not limited to:
 - a. Reduction in the number of ingress and egress points through elimination, minimization and consolidation of drives and curb cuts;
 - b. Proximity and relation to intersections, specifically with regard to the distance between drives and intersections;
 - c. Reduction and, if necessary, elimination of pedestrian and vehicular traffic conflicts;
 - d. Adequacy of sight distances between road and driveway intersections;
 - e. Location and accessibility of off-street parking, loading and unloading for automotive vehicles, including busses and trucks;

- f. Location and potential use of ingress and egress drives to access Special Use parcels for possibly reducing the number of access points necessary to serve the parcels.
6. The Special Use shall be screened along all sides and rear property lines by a buffer area, berm, fence or wall, and along the front property or by line by a greenbelt, unless demonstrated that the use can be adequately controlled through other means such as restrictions on hours of activity or the extent of the impact from the Special Use by the type and level of activity to be conducted on the site.
7. The use shall be adequately served by utilities as prescribed by the Township, County or State of Michigan.
8. The use shall not have an adverse effect on the natural environment beyond the normal effects of permitted principal uses in the same zoning district and shall not result in the impairment, pollution or destruction of the air, surface and ground water, vegetation and other natural resources in terms of their effect on the public health, safety and other aspects of the general welfare.
9. The use shall be specifically scrutinized for conformance with the performance standards outlined in this Ordinance.
10. The proposed use shall be designed and conditioned as to location, size, intensity, site layout, and periods of operation in order to eliminate any possible nuisances which might be obnoxious to the occupants of any other nearby properties. The Special Use shall, therefore, not be permitted to involve activities, processes, materials, equipment and operations that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration and odors and have adverse environmental impacts and detrimental effects on the general aesthetics or appearance of the character of the surrounding area.
11. The Planning Commission shall determine that the proposed use does not impose an unreasonable burden upon public services and utilities in relation to the burden imposed by other permitted principal uses in the same zoning district.
12. The Planning Commission may recommend the imposition of conditions in approving Special Uses which it deems necessary to fulfill the purpose and requirements of this Ordinance. The conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating any increased service and facility loads caused by the Special land use or any activity connected with it, to protect the natural environment, conserve natural resources and energy, to ensure compatibility with

adjacent uses of land, and to promote the arrangement of the use of land in a socially and economically desirable manner. Conditions shall be required to accomplish the following:

- a. Be designed to protect the natural environment and conserve natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or related activity under consideration, residents and landowners immediately adjacent to the proposed land use or related activity, and the community as a whole.
 - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or related activity.
 - c. Be necessary to meet the intent and purpose of the Zoning Ordinance generally or any part of it specifically; be related to the provisions, standards and requirements established in this Ordinance for the Use or related activity under consideration; and be necessary to ensure compliance with those purposes, provisions, standards and requirements.
 - d. Provide adequate safeguards for the protection of the general welfare and individual property rights, and for ensuring that the intent, purpose, goals and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement, and the failure to correct such breach within 30 days after an order to correct is issued by the Township shall be reason for immediate revocation of the approved Special Use. Conditions and requirements included as a condition of approval of a Special Use shall be continuing obligations of all owners, managers and users of the Special Use and are binding upon their heirs and assigns and upon any persons taking title to the affected property while such Special Use approval is in effect.
13. The discontinuance of a Special Use, after a specified period of time or by a specified date, may be a condition placed upon the issuance of the approved Special Use. Renewal of a Special Use may be granted after a review and determination by the Planning Commission that continuing private need and public benefit will be served by such renewal, provided that the renewal application shall be in accord with the Zoning Ordinance provisions, standards and requirements in effect at the time that the renewal is requested.

D. General Stipulations

1. Application for a Special Use shall be made by those persons having ownership of the land on which the Special Use is requested. All persons having an ownership

interest in the property shall sign the application prior to its acceptance by the Township.

2. The approved minutes of the Township Board shall be the date official action was taken on a requested Special Use. Said minutes shall be made available to the applicant whether the Special Approval request is approved, approved with conditions, or denied and shall constitute notice of the Township Board's decision regarding the Special Use request.
3. The Planning Commission shall give notice of the time and place of the required public hearing for Special Uses as required by State law.
4. All construction, improvement or use of a parcel or parcels of land shall be in complete accord with the Special Use and any conditions included in the final approval, including the approved site plan.
5. A Special Use approval may be terminated by subsequent rezoning of the affected site as is the case of any other currently zoned property, as a part of an appropriate change in zoning, subject to the continuance of any vested legal nonconforming use rights. Such termination may be initiated only after recommendation by the Planning Commission and final decision by the Township Board to amend the Zoning Ordinance.
6. The re-application, reconsideration and rehearing for a Special Use which has been denied by the Township Board shall not be resubmitted until the expiration of one (1) year from the date of such denial, except on grounds of newly discovered evidence or proof of materially changed conditions, sufficient to justify reconsideration by the Planning Commission. Each re-application will be treated as a new application.
7. All conditions included with the approval of a special use or a related activity shall be recorded in the official approved minutes of the Township Board and shall remain unchanged except upon the mutual approval of the Township Board after receiving the Planning Commission recommendation and the landowner. The Township Board approved minutes shall include a record of all changes in conditions mutually agreed to.

Section 23.10 - Permitted Special Uses

The following is a list of Special Uses which will be considered for inclusion in the respective more general Zoning Districts. In addition to the Zoning District Requirements in which those uses are permitted they shall also meet the following requirements:

A. Outdoor Theaters

Because outdoor theaters possess the unique characteristic of being used only after dark and since they develop a concentration of vehicular traffic at times of ingress and egress from their parking area, they shall be permitted as special uses in AG, AGLD, and C zoning districts only and shall further be subject to the following conditions:

1. The proposed internal design shall receive approval from the Zoning Administrator as to adequacy of drainage, lighting and other technical aspects.
2. Outdoor theaters shall abut a major thoroughfare and points of ingress and egress shall be available only from such major thoroughfare.
3. All vehicles, waiting or standing to enter the facility, shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.
4. The area shall be so laid out as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be so installed as to be confined within, and directed onto, the premises of the outdoor theater site.

B. Commercial Cellular Towers, Television and Radio Towers (deleted January 27, 2012)

C. Mobile Home Parks including Recreational

Mobile home parks shall be permitted in the AGMD – Agricultural Medium Density Zoning District. Recreational Trailer Coach Parks shall be permitted only in a C Commercial Zoning District unless otherwise authorized as a Special Land Use in the AG or AGLD zoning districts. Both land uses must possess site and development characteristics, in terms of site plan flexibility and density, somewhat similar to multiple-family residential development. They may, under this Ordinance, be used to provide for transition between non-residential development and agricultural / residential districts.

The mobile home park shall have access to a major thoroughfare. Access shall not be provided by means of residential sub-division streets.

All mobile home parks shall further comply with Act 243 of Public Acts of the State of Michigan, 1959, as amended and the development guidelines that have been developed by the Michigan Manufactured Housing Commission as a result of the Act.

No building or structure hereafter erected or altered in a mobile home park shall exceed the height and story requirements of the AGMD – Agricultural Medium Density Zoning District.

All uses established under this provision shall require site plan review, recommendation of the Township Planning Commission, after a public hearing and Township Board approval.

Section 23.11 Wireless Telecommunications Facilities

- Effective March 29, 2013 Revisions Due to Changes in State Law

A. Purpose and Legislative Intent.

The Telecommunications Act of 1996 affirmed Almena Township’s authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. Almena Township finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Township and its inhabitants. The Township also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Township and of significant benefit to the Township and its residents. In order to ensure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the Township’s land use policies, the Township is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Local Ordinance is to minimize impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of Almena Township.

B. Title.

This Ordinance shall be known and cited as the Wireless Telecommunications Facilities Siting Ordinance for Almena Township.

C. Severability.

1. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

2. Any approval issued under this Ordinance shall be comprehensive and not severable. If part of an approval is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the approval shall be void in total, upon determination by the Township.

D. Definitions.

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word “shall” is always mandatory, and not merely directory.

1. “**Accessory Facility or Structure**” means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. “**Applicant**” means any Wireless service provider submitting an Application for approval of a Wireless Telecommunications Facility.
3. “**Application**” means all necessary and appropriate documentation that an Applicant submits in order to receive approval for a modification or co-location on an existing Wireless Telecommunication Facility or for the construction of a new Wireless Telecommunication Facility.
4. “**Antenna**” means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
5. “**Co-location**” means the use of an existing Tower or structure to support Antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short time frame after the new tower is constructed.
6. “**Commercial Impracticability**” or “**Commercially Impracticable**” means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercial impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
7. “**Completed Application**” means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
8. “**Board**” means the Township Board of the Township of Almena.
9. “**Distributed Antenna System or DAS**” means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.

10. **“FAA”** means the Federal Aviation Administration, or its duly designated and authorized successor agency.

11. **“FCC”** means the Federal Communications Commission, or its duly designated and authorized successor agency.

12. **“Height”** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.

13. **“Modification” or “Modify”** means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment.

Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

14. **“NIER”** means Non-Ionizing Electromagnetic Radiation.

15. **“Person”** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

16. **“Personal Wireless Facility”** See definition for ‘Wireless Telecommunications Facilities’.

17. **“Personal Wireless Services” or “PWS” or “Personal Communications Service” or “PCS”** shall have the same meaning as defined and used in the 1996 Telecommunications Act.

18. **"Repairs and Maintenance"** means the replacement of any component of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

19. **“Special Use Permit”** means the Township approval by which an Applicant is allowed to file for a building permit to construct a new Wireless Telecommunications Facility as granted or issued by the Township.

20. **“Stealth” or “Stealth Technology”** means to minimize adverse aesthetics and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

21. **“State”** means the State of Michigan.

22. **“Telecommunications”** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

23. **“Telecommunication Site”** See definition for Wireless Telecommunications Facilities.

24. **“Telecommunications Structure”** means a structure used in the provision of service described in the definition of ‘Wireless Telecommunications Facilities’.

25. **“Temporary”** means, temporary in relation to all aspects and components of this Ordinance, something intended to, or that does not exist for more than ninety (90) days.

26. **“Tower”** means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

27. **“Wireless Telecommunications Facilities”** means and includes a **“Telecommunications Site”** and **“Personal Wireless Facility”**. It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

E. Overall Policy and Desired Goals for Special Use Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the Township’s health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the Township hereby adopts an overall policy with respect to

Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

1. Requiring a Special Use Permit for any new Wireless Telecommunications Facility.
2. Implementing an Application process for person(s) seeking approval for a new Wireless Telecommunications Facility or co-location/modification of an existing Wireless Telecommunication Facility.
3. Establishing a policy for examining an application for and issuing an appropriate approval for Wireless Telecommunications Facilities that is both fair and consistent.
4. Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers.
5. Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
6. That in granting an approval, the Township has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the Township.

F. Exceptions from a Special Use Permit for Wireless Telecommunications Facilities.

1. Except as otherwise provided by this Ordinance no Person shall be permitted to site, place, build, construct, or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Ordinance without having first obtained a Special Use Permit. Notwithstanding anything to the contrary in this section, no Special Use Permit shall be required for those non-commercial exceptions noted in Section G.
2. All legally permitted Wireless Telecommunications Facilities, constructed as permitted, existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility will require the complete facility and any new installation to comply with this Ordinance.
3. Co-locations, and any repair, maintenance, or modification to an existing Wireless Facility must be approved administratively and do not require an Application for a Special Use Permit.

G. Exclusions.

The following shall be exempt from this Ordinance:

1. The Township's fire, police, or other public service facilities owned and operated by the local government.
2. Any facilities expressly exempt from the Township's siting, building and permitting authority.
3. Over-the-Air reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
4. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.
5. Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

H. Special Use Permit Application and Other Requirements.

1. All Applicants for a Special Use Permit for a new Wireless Telecommunication Facility or an application for an administrative approval of a modification co-location shall comply with the requirements set forth in this Ordinance. The Planning Commission is the officially designated agency or body of the Township to whom applications for a Special Use Permit must be made, and that is authorized to review, analyze, evaluate and make a recommendation to the Township Board with respect to granting or not granting or revoking Special Use Permits. (See Section 23). The Township Board shall make the final decision with respect to the granting, not granting or revoking of Special Use Permits.
2. The Township may reject applications for new Wireless Telecommunication facilities not meeting the requirements stated herein or which are otherwise incomplete.
3. No new Wireless Telecommunications Facilities shall be installed or constructed until the Application is reviewed by the Planning Commission, and the Special Use Permit has been approved by the Township Board.
4. Any and all representations made by the Applicant to the Township on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Township.
5. An Application for a Special Use Permit shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.

6. The Applicant must provide documentation to verify it has the right to proceed as proposed on the Site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required. This requirement shall apply to new facilities as well as co-locations and modification of existing facilities.

7. The Applicant shall include a statement in writing:

a. That the applicant's proposed Wireless Telecommunications Facility shall be maintained in a safe manner, and in compliance with all conditions of the Special Use Permit, without exception, unless specifically granted relief by the Township in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Township, State and Federal Laws, rules, and regulations.

b. That the construction of the Wireless Telecommunications Facility is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.

8. Where a certification is called for in this Ordinance, such certification shall bear the signature and seal of a Registered Professional licensed in the State.

9. In addition to all other required information as stated in this ordinance, all applications for the construction or installation of new Wireless Telecommunications Facilities or modification of an existing facility shall contain the information hereinafter set forth.

a. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;

b. Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Township. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;

c. The name, address and phone number of the person preparing the report;

d. The name, address, and phone number of the property owner and Applicant, and to include the legal name of the Applicant. If the site is a tower and the owner is different than the applicant, provide name and address of the tower owner;

e. The postal address and tax map parcel number of the property;

f. The Zoning District or designation in which the property is situated;

- g. Size of the lot or parcel stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
- h. The location of nearest residential structure;
- i. The location, size and height of all existing and proposed structures on the property which is the subject of the Application;
- j. The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- k. The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;
- l. The number, type and model of the Antenna(s) proposed with a copy of the specification sheet;
- m. The make, model, type and manufacturer of the Tower and design plan stating the Tower's capacity to accommodate multiple users;
- n. A site plan describing the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- o. The frequency, modulation and class of service of radio or other transmitting equipment;
- p. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
- q. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;
- r. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
- s. A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
- t. A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing Tower site and if existing Tower or water tank site, a copy of the installed foundation design.

10. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines, that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

11. Application for New Tower

a. In the case of a new Tower, the Applicant shall be required to submit a written report of alternative buildings or other structures within the Township. If the applicant has approached any other facilities with requests to co-locate, copies of written requests and responses for shared use shall be provided to the Township in the Application, along with any letters of rejection stating the reason for rejection.

b. In order to better inform the public, in the case of a new Telecommunication Tower, the Applicant shall, prior to the public hearing on the application, hold a “balloon test”. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the Township. The Applicant shall inform the Township, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the Application.

c. The Applicant shall examine the feasibility of designing the proposed Tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least four (4) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant’s Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:

- 1) The foreseeable number of FCC licenses available for the area;
- 2) The kind of Wireless Telecommunications Facilities site and structure proposed;

3) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;

4) Available space on existing and approved Towers.

d. The owner of a proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:

1) Respond within 60 days to a request for information from a potential shared use Applicant;

2) Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;

3) Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

4) Failure to abide by the conditions outlined above may be grounds for revocation of the Special Use Permit.

12. The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility Tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, Township, State and Federal structural requirements for loads, including wind and ice loads.

13. If proposal is for a co-location or modification on an existing Tower, the applicant is to provide signed documentation of the Tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

14. All proposed Wireless Telecommunications Facilities shall contain a demonstration that the Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the Wireless Telecommunications Facility.

15. If a new Tower, proposal for a new Antenna attachment to an existing structure, or modification adding to a visual impact, the Applicant shall furnish a Visual Impact Assessment, which shall include:

a. If a new Tower or increasing the height of an existing structure is proposed, a computer generated “Zone of Visibility Map” at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.

b. Pictorial representations of “before and after” (photo simulations) views from key viewpoints both inside and outside of the Township as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.

c. A written description of the visual impact of the proposed facility including; and as applicable the Tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

16. The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed Wireless Telecommunications Facility.

17. The Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the Township.

18. All utilities at a Wireless Telecommunications Facilities site shall be installed underground whenever possible and in compliance with all Laws, Ordinances, rules and regulations of the Township, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

19. At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

20. All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Township, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

21. An owner of a Wireless Telecommunications Facility shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Township or other governmental entity or agency having jurisdiction over the applicant.

22. There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Both the pre-application meeting and the site visit shall take place within 14 days of the submission of the application.

23. An Applicant shall submit to the Township the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.

24. The holder of a Special Use Permit shall notify the Township of any intended Modification of a Wireless Telecommunications Facility and shall apply to the Township to modify, relocate or rebuild a Wireless Telecommunications Facility.

I. Location of Wireless Telecommunications Facilities:

Applicants for Wireless Telecommunications Facilities shall locate, site, and erect said Wireless Telecommunications Facilities in accordance with the following priorities, “a” being the highest priority and “c” being the lowest priority. **Revised 09-14-2016**

- a. On existing towers or other structures currently used as Wireless Telecommunications Facilities.
- b. On existing towers or other structures not currently used as Wireless Telecommunications Facilities.
- c. On a new tower.

2. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected.

The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

3. An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected.

If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the Township why co-location is commercially or otherwise Impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.

4. Notwithstanding the above, the Township may approve any site located within an area in the above list of priorities, provided that the Township finds that the proposed site is in the best interest of the health, safety and welfare of the Township and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

5. The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

6. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Township may disapprove an Application for any of the following reasons.

a. Conflict with safety and safety-related codes and requirements;

b. Conflict with the historic nature or character of a neighborhood or historical district;

c. The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Township, or employees of the service provider or other service providers;

d. Conflicts with the provisions of this Ordinance.

J. Shared Use of Wireless Telecommunications Facilities and Other Structures.

An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.

K. Height of Telecommunications Tower(s).

1. The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10) feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Township, to the extent practicable, unless good cause is shown.

2. No Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with Township, State, and/or any Federal statute, law, local law, Township Ordinance, code, rule or regulation.

L. Visibility of Wireless Telecommunications Facilities.

1. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.

2. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.

3. If lighting is required, Applicant shall provide a plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

M. Security of Wireless Telecommunications Facilities.

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All Antennas, Towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

2. Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

N. Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as

applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

O. Lot Size and Setbacks.

1. All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting lots or parcels and recorded public rights-of-way by the greater of the following distances:

a. A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or

b. The existing setback requirement of the underlying Zoning District, whichever is greater.

2. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the lot or parcel on which it is situated.

P. Retention of Expert Assistance and Reimbursement by Applicant.

1. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any site inspections.

2. An Applicant shall deposit \$1,000 with the Township to cover review costs. The Special Use permit fee shall be included in the \$1,000.

Q. Public Hearing.

Prior to the approval of any Application for a Special Use Permit, a Public Hearing shall be held by the Township under the process described in Section 23.

R. Action on an Application for a Special Use Permit for Wireless Telecommunications Facilities.

The Township will comply with all applicable Federal and State laws, including timelines for approval or “shot clocks.” **Revised 09-14-2016**

S. Performance Security.

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the Township a bond, or other form of security acceptable to the Township as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the Township to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Special Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site

restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit.

T. Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a Special Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, Ordinances and regulations and other applicable requirements, the Township may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

U. Liability Insurance.

1. A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below:

a. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;

b. Automobile Coverage: \$1,000,000 per occurrence/ \$2,000,000 aggregate;

c. Workers Compensation and Disability: Statutory amounts.

2. For a Wireless Telecommunications Facility on Township property, the Commercial General Liability insurance policy shall specifically include the Township and its officers, Boards, employees, committee members, attorneys, agents and consultants as additional insureds.

3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Township with at least thirty-(30) days prior written notice in advance of the cancellation of the insurance.

5. Renewal or replacement policies or certificates shall be delivered to the Township at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

6. Before construction of a permitted Wireless Telecommunications Facility is initiated, but in no case later than fifteen (15) days after the granting of the Special Use Permit, the holder of the Special Use Permit shall deliver to the Township a copy of each of the policies or certificates representing the insurance in the required amounts.

V. Indemnification.

1. Any application for Wireless Telecommunication Facilities that is proposed for Township property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Township, and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Township, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Township.

2. Notwithstanding the requirements noted in subsection 1 of this section, an indemnification provision will not be required in those instances where the Township itself applies for and secures a Special Use Permit for Wireless Telecommunications Facilities.

W. Fines.

1. In the event of a violation of this Ordinance or any Special Use Permit issued pursuant to this Ordinance, the Township may impose and collect, and the holder of the Special Use Permit for Wireless Telecommunications Facilities shall pay to the Township, fines or penalties as set forth below.

2. The holder of a Special Use Permits failure to comply with provisions of this Ordinance shall constitute a violation of this Ordinance and shall subject the Applicant to the code enforcement provisions and procedures as provided in Article 27 of the Zoning Ordinance of the Township of Almena.

3. Notwithstanding anything in this Ordinance, the holder of the Special Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit. The Township may also seek injunctive

relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the Township.

X. Default and/or Revocation.

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Special Use Permit, then the Township shall notify the holder of the Special Use Permit in writing of such violation. A Permit holder in violation may be considered in default and subject to fines as in Section Y above and if a violation is not corrected to the satisfaction of the Township in a reasonable period of time the Special Use Permit is subject to revocation.

Y. Removal of Wireless Telecommunications Facilities.

1. Under the following circumstances, the Township may determine that the health, safety, and welfare interests of the Township warrant and require the removal of Wireless Telecommunications Facilities.

a. Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;

b. Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;

c. Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or any other necessary authorization and the Special Permit may be revoked.

2. If the Township makes such a determination as noted in subsection 1 of this section, then the Township shall notify the holder of the Special Use Permit within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed, the Township may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.

3. The holder of the Special Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the Township. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Township.

4. If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the Permit holder has received notice, then the Township may order officials or representatives of the Township to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit holder.

5. If, the Township removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the Township may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

6. Notwithstanding anything in this Section to the contrary, the Township may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Special Use Permit, subject to the approval of the Township, and an agreement to such plan shall be executed by the holder of the Special Use Permit and the Township. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Township may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

Z. Relief.

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such, provided that the relief or exemption is contained in the submitted Application for either an approval, or in the case of an existing or previously granted approval, a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the Township in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved by the Township Board unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the Township, its residents and other service providers.

AA. Periodic Regulatory Review by the Township.

1. The Township may at any time conduct a review and examination of this entire Ordinance.
2. If after such a periodic review and examination of this Ordinance, the Township determines that one or more provisions of this Ordinance should be amended, repealed, revised, clarified, or deleted, and then the Township may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the Township, the Township may repeal this entire Ordinance at any time.
3. Notwithstanding the provisions of subsections 1 and 2 of this Section, the Township may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Ordinance.

BB. Adherence to State and/or Federal Rules and Regulations.

1. To the extent that the holder of a Special Use Permit has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC.

Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

2. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit, then the holder of such a Special Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

**ARTICLE XXIV
CONDITIONAL REZONING**

Revised 10-1-2010

Section 24.01 - Intent

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if conditions could be proposed by property owners as part of a request for a rezoning in order to make their application more appropriate to the community and address some of the concerns that are anticipated for the proposed district. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, P. A. 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

This is not intended to be a tool to be used to circumvent the vision for the property or area presented in the Township Master Plan or allow for significant shifts in Township land use policy. Rather, this tool provides a mechanism for the development of rare, unique sites that do not fit neatly into a particular zoning district even though they are consistent with that area's Master Plan designation. The procedure and criteria for the use of conditional rezoning are the same, with those modifications indicated below, as for conventional rezoning.

Section 24.02 - Application and Offer of Conditions

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section. The "offer of conditions" shall be a documented list of restrictions that the applicant voluntarily requests to place on the property in order to create what they believe will be a more attractive rezoning application and ultimately receive rezoning approval. The "offer of conditions" and/or any of the conditions within it may not be coerced or requested by the Township and may only be provided by the applicant.
- C. The owner's offer of conditions may not authorize uses or developments that are prohibited in the requested new zoning district.
- D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

- E. Approval of a conditional rezoning request does not exempt the applicant and/or property owner from subsequent review and approval requirements that may apply to the proposed development of the site:
 - 1. Any use or development proposed as part of an offer of conditions that would otherwise require a special land use permit under the terms of this Ordinance will still require special land use permit review and approval following the conditional rezoning approval, if granted.
 - 2. Any use or development proposed as part of an offer of conditions that would otherwise require a variance under the terms of this Ordinance will still require variance approval by the ZBA following the conditional rezoning approval, if granted.
 - 3. Any use or development proposed as part of an offer of conditions that would otherwise require site plan approval under the terms of this Ordinance will still require site plan approval following the conditional rezoning approval, if granted.
- F. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission’s public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

Section 24.03 - Planning Commission Review

- A. Upon receipt of the application, the Zoning Administrator, or his or her designee, shall conduct the necessary review of the information to ensure that all of the necessary materials are provided in accordance with Section 28.04 and any additional requirements of this chapter. If necessary and requested, additional copies shall be submitted to Township advisors and consultants for review and recommendation prior to review by the Planning Commission.
- B. The Zoning Administrator shall transmit the application package to the Planning Commission, who shall review and recommend approval or denial on the proposed action to the Township Board within a reasonable period of time in accordance with the process in Article 28 and specifically Section 28.05 and 28.06.
 - 1. The procedure, including the public hearing and notice, shall be the same for conditional rezoning as it is for rezoning.

2. The criteria for approval of the conditional rezoning shall be the same as for rezoning (Section 28.06) with the addition of those items identified in Section 24.13.
- C. Although a formal Statement of Conditions is not required at this stage in the process, a draft shall be submitted along with a site plan for projects involving site changes for review by the Planning Commission.
1. Even though this is not site plan review, the procedures and criteria for site plan review (Article 22) provide a guide for the review of this portion of the application.
 2. The Commission may not recommend conditional approval or make direct recommendations on changes the applicant should make to the application or offer of conditions. Issues with the application may be stated during the discussion and should be provided as rationale for a denial.

Section 24.04 - Township Board Review and Approval Procedure

- A. After receipt of the Planning Commission's recommendation, the Township Board shall discuss and deliberate upon the requested rezoning.
1. The process for the review and approval shall be consistent with that provided in Article 28 for conventional rezoning and specifically Sections 28.05 and 28.06.
 2. The criteria for approval of the conditional rezoning shall be the same as that for conventional rezoning (Section 28.06) with the addition of those items identified in Section 24.13.
- B. If the Township Board is in agreement with the recommendation of the Planning Commission to approve or deny the conditional rezoning, the Township Board shall take such action to approve or deny the rezoning.
1. If approved, the applicant shall work with the Township Board and Township Attorney on formatting the conditions into a more formal agreement or Statement of Conditions (see Section 24.05).
 2. If approved, the final Statement of Conditions shall be included with the ordinance approving the rezoning. (See Section 24.05 for this and other procedural steps to be accomplished upon adoption.)
- C. If the Township Board does not agree with the Planning Commission or has concerns that lead to changes being made to the conditions or application, such changes must be offered by the applicant and cannot be recommended by the Township Board. The Township

Board shall return the revised application to the Planning Commission for a report on the proposed changes within a specified time frame.

Section 24.05 - Approval

- A. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

- B. The Statement of Conditions shall:
 - 1. Be in a form recordable with the Van Buren County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - 2. Contain a legal description of the land to which it pertains.
 - 3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land unless the applicant has offered as a condition of rezoning approval some specific point in time at which the conditions shall cease and the site shall be reverted back to its previous zoning designation.
 - 4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - 5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds.
 - 6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a unique designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

Section 24.06 - Compliance with Conditions

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of the Zoning Ordinance and this Ordinance and be punishable according to the requirements of Section 26.06 through 26.09 of this Ordinance. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law including but not limited to the specific terms of the Statement of Conditions (see Sections cited above).
- B. No permit or approval shall be granted under this Ordinance for any use or development that does not comply with the requirements agreed to in an approved Statement of Conditions for that property.

Section 24.07 - Time Period for Establishing Development or Use

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if 1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and 2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

Section 24.08 - Reversion of Zoning

If approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection 24.07 above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

Section 24.09 - Subsequent Rezoning of Land

When land that has been conditionally rezoned is thereafter rezoned to a different zoning classification, or there is a request to amend or rescind the Statement of Conditions, the Statement of Conditions imposed under the conditional rezoning approval shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds a notice that the original Statement of Conditions is no longer in effect.

Section 24.10 - Amendment of Conditions

- A. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

Section 24.11 - Township Right to Rezone

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from subsequently rezoning all or any portion of land that is has been conditionally rezoned to another zoning classification. Any such rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

Section 24.12 - Failure to Offer Conditions

The Township shall not require an applicant for rezoning to apply for conditional rezoning or submit an offer of conditions with their rezoning application. The lack of an offer of conditions shall not affect an owner's rights to apply for a rezoning of property under this Ordinance.

Section 24.13 - Consideration

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
- B. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
- D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- E. Whether the proposed development associated with the conditional rezoning satisfied the standards of this Zoning Ordinance and the criteria for site plan review (22.09) and/or special use approval (23.09) as applicable.

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**ARTICLE XXV
NONCONFORMING LOTS, BUILDINGS AND STRUCTURES, AND USES**

Section 25.01 - Continuance of Nonconforming Uses

It is recognized that there exists within zoning districts certain lots, buildings and structures, and uses which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated, or restricted under the terms of this Ordinance. It is the intent of this Ordinance to permit legal, nonconforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their continued use or survival.

Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted.

Section 25.02 - Enlargement, Expansion or Extension of Nonconforming Uses Prohibited

Nonconforming lots, buildings and structures, and uses are declared by this Ordinance to be incompatible with the districts in which they are located. It is the intent of this Ordinance that these nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district, except as may be provided for in this Section.

Section 25.03 - Extension of Nonconforming Use within Nonconforming Parts of Buildings and Structures

Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption of amendment of this Ordinance, but no such use shall be extended to occupy any land outside such buildings, or to parts of such building not built, designed or intended for such use.

Section 25.04 - Restoration of Nonconforming Use

A nonconforming use, building or structure damaged by fire, casualty, or act of God may be restored, reconstructed and used as before, provided that the volume of such use, building or structure may not exceed, subject to the provision of this Section, the volume which existed prior to such damage and that any such restoration or reconstruction be substantially completed within one (1) year of the occurrence of the damage.

Section 25.05 - Zoning Board of Appeals Empowered to Expand Nonconforming Uses

No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Zoning Board of Appeals upon reaching a determination that the proposed enlargement, increase, or greater area:

- A. Shall not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots;
- B. Shall comply with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase, or greater area;
- C. Shall comply with any reasonable conditions imposed by the Zoning Board of Appeals that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community; and
- D. Shall not be larger than 25% of the original nonconforming area.

Section 25.06 - Permitted Enlargement of a Nonconforming Structure

- A. Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of any nonconformity. For example, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
 - 1. An increase in the total amount of space devoted to a nonconforming use, or
 - 2. Greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitations, density requirements, or other requirements in the district in which the property is located.
- B. If the expansion or alteration satisfies all dimensional and setback requirements of the zoning district and would otherwise be permitted on the property, the proposed expansion shall not require approval of the Zoning Board of Appeals.
- C. A structure that is nonconforming with respect to the minimum required front yard setback may also be enlarged without requiring Zoning Board of Appeals' approval provided that:
 - 1. Such enlargement shall be permitted only for a principal building;
 - 2. Such enlargement shall not extend closer to the front lot line than the front façade of the building; and
 - 3. Such enlargement shall conform to all other dimensional standards of the District in which the building is located, as provided in Section 11.01 (Schedule of District Regulations), including side and rear yard setbacks, maximum building coverage, and maximum building height.

Section 25.07 - Changes of Nonconforming Uses Permitted by Zoning Board of Appeals

A nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Board of Appeals:

- A. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.
- B. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise be permitted by this Section.
- C. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.

Section 25.08 - Nonconforming Lots of Record

Where a lot of record is in existence at the time of the adoption or amendment of this Ordinance and does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any purposes permitted by the zoning district in which the lot is located, provided that any building or structure meets the minimum yards setback requirements of the Zoning district in which it is located and requirements for water and wastewater systems established by the Van Buren County Health and any applicable conditions, covenants and restrictions imposed upon the lot (or condominium units). (See: Section 17.05)

Section 25.09 - Contiguous Nonconforming Lots in Common Ownership

For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, or at any time thereafter, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they are:

- A. in common ownership;
- B. are adjacent to each other or have continuous frontage, and;
- C. individually does not meet the lot width or lot area requirements of this Ordinance.

Such parcels shall be combined into a lot or lots complying as nearly as possible with the lot width and lot size requirements of this Ordinance. No portion of such parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

Section 25.10 - Abandonment of Nonconforming Uses and Structures

If a nonconforming use is abandoned for any reason for a continuous period of more than six (6) months any subsequent use shall conform to the requirements of this Ordinance.

A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use when:

- A. Utilities, such as water, gas and electricity to the property, have been disconnected;
- B. The property, buildings, and grounds, have fallen into disrepair;
- C. Signs or other indications of the existence of the nonconforming use have been removed;
- D. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
- E. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.

The official date of abandonment of an abandoned nonconforming use shall be the date of posting of a notice of abandonment upon the property by the Zoning Administrator with a copy delivered via US Postal Service to the owner of record, as stated in the Township tax assessment records.

Section 25.11 - Moving of Nonconformities

If any part of a nonconforming use is moved, the part of the nonconforming use that is moved shall be considered to be abandoned and any subsequent use shall conform to the requirements of this Ordinance.

Section 25.12 - Township Elimination of Nonconforming Uses

The Township may acquire, through purchase, condemnation, or otherwise, private nonconforming lots, buildings and structures, and uses, for the purpose of removal and allowing the site to be brought into conformance with this ordinance. Such action shall be in compliance with the provisions of Section 208 of P.A. 110 of 2006, as amended.

**ARTICLE XXVI
ADMINISTRATION, FEES AND ENFORCEMENT**

Section 26.01 - Purpose

The purpose of this Article is to provide for the organization of personnel and procedures for the administration of the Ordinance, including the submittal and review of land use and development plans, issuance of land and structural use zoning compliance permits, inspections of properties for compliance with the Zoning Map and regulations, establishment and collection of permit fees, handling of violators and enforcement other provisions of this Ordinance and any amendments to it.

Section 26.02 - Administration

The provisions of this Ordinance shall be administered by the Zoning Administrator and/or Building Inspector, Township Board, the Township Planning Commission and such other personnel as designated by the Township Board in accordance with the Michigan P.A. 33 of 2008, as amended, the “Michigan Planning Enabling Act”, P. A. 110 of 2006, as amended, the “Michigan Zoning Enabling Act”, and this Zoning Ordinance.

- A. All powers and authority provided to a Zoning Commission in P.A. 110 of 2006, as amended, shall be transferred to the Almena Township Planning Commission. The Planning Commission shall establish its own rules of operation and conduct in conformance with P.A. 33 of 2008, as amended.
- B. The Township Board may all employ a Zoning Administrator who shall act as the officer to carry out the enforcement of this Ordinance. The person selected, the terms of employment and the rate of compensation shall be established by the Township Board.

Section 26.03 - Duties of Zoning Administrator

- A. Receive and review all applications for Zoning Permits, including those for approved Special Uses, Planned Unit Developments, and Zoning Board of Appeals grants of variances, and approve or disapprove such applications based on compliance with the provisions of this Ordinance and shall approve issuance of the permit, if the use and the requirements of this Ordinance and any approved site plans are met.
- B. The Zoning Administrator shall assist the Township Board, the Planning Commission and the Zoning Board of Appeals in the processing and administering of all zoning appeals for variances, special use permits, planned unit developments and amendments to the Zoning Ordinance.
- C. The Zoning Administrator shall be responsible to update the Official Township Zoning Map and keep it current, and the map shall be placed on file in the Township Clerk’s office.

- D. The Zoning Administrator shall prepare and submit to the Township Board and the Planning Commission a written record of all Zoning Compliance Permits issued during each quarter of the calendar year. The record shall state the owner=s name, location of property, intended use and estimated cost of construction for each permit.
- E. Maintain written records of all actions taken by the Zoning Administrator.
- F. Provide periodic reports to the Township Supervisor.

Section 26.04 – Annual Report

In accordance with Section 308 of P.A. 110 of 2006, as amended, the Planning Commission shall prepare for the Township Board at least once annually, a report on the administration and enforcement of the Zoning Ordinance, including recommendations as to the enactment of amendments or supplements to the Ordinance, planning and development trends and issues in the Township, and budgetary needs of the Commission.

Section 26.05 - Zoning Compliance Permit

- A. **Zoning Compliance Permit Requirements:** A Zoning Compliance Permit is required for and shall be obtained after the effective date of this Ordinance from the office of the Zoning Administrator or his agent by the owner or his agent for the following conditions:
 - 1. The administrative coordination of Zoning Compliance Permits issued by the Township Zoning Administrator and Building Permits by the Building Inspector shall be in accordance with Section 26.05 B of this Ordinance.
 - 2. The staking out, grading, or any other construction relating to all land developments intended or capable of meeting the requirements of this Ordinance for possible land, building or structural use.
 - 3. The construction, enlargement, alteration, demolition, or moving of any dwelling, building or structure or any part thereof, being used or to be used for agricultural, residential, commercial, industrial, public, or semi-public purposes.
 - 4. Repairs of a minor nature or minor alterations which do not change the use, occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building shall not require a Zoning Permit.
- B. **Application for a Zoning Compliance Permit:** Application for a Zoning Compliance Permit shall be made by the property owner and other owners or an owner(s) designated representative in writing upon a form furnished by the Zoning Administrator, including

the following information either on the application form, supporting documentation or on a site plan:

1. The location, shape, area and dimensions for the parcel(s), lot(s) or acreage, and all existing improvements on the lot or parcel delineated on a plot of survey prepared by a licensed Land Surveyor, including right-of-ways easements sewer and water, drainage, and at the request of the Zoning Administrator other data including 1) large trees six (6) inches or more in diameter for the portion of the site to be developed, 2) important natural features, including shorelines, surface water features, wetlands and when required for analysis of compliance with the terms of this ordinance, topography at a scale necessary to determine compliance with the terms of this Ordinance.
2. The location of the proposed construction, upon the parcel(s), lot(s) or acreage affected, including all buildings and structures, e.g. walls, fences, berms, walks, drives, roads, parking areas, landscaping, buffers and utilities.
3. The dimensions, height and floor area of structures, including the perimeter pattern of foundation (“footprint”) for each building and structure.
4. The type of the proposed construction, alteration, or repair and the intended use, including buildings and structures, water supply and wastewater disposal systems, surface and underground drainage and impoundment system, public utilities, offices, working areas and recreation rooms.
5. The proposed number of dwelling units, sleeping rooms in each dwelling unit, occupants per dwelling unit and employees, customers, other uses (commercial, industrial, public and semi-public) and the floor area dimensions of each.
6. The present use of any structure affected by the construction or alteration.
7. All yard, open land area and parking space dimensions, if applicable.
8. The proposed plan and specifications of curb cuts, walks, drives, driveway entrance lanes, and off street parking spaces, if applicable.
9. The proposed plan and specifications of off-street loading and unloading spaces provided, if applicable.
10. Present zoning, proposed and required minimum setbacks, proposed and permitted maximum lot coverage and zoning of adjacent properties.

11. Height, size and location of all signs - both freestanding and those mounted on structures.
12. Any other information deemed necessary by the Zoning Administrator to determine and provide for conformance to and the enforcement of this Ordinance and to assure compliance of approved site plans for special uses and planned unit developments.
13. A statement on the potential impact of the proposed development on the present natural conditions of the lot or parcel and the impact on adjacent properties and their present and future uses.

C. **Project Compliance Requires Issuance of Permit:** If the information included in and with the application is in compliance with these requirements and all other provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Compliance Permit upon payment of the required Zoning Compliance Permit fee.

D. **Voiding of Permit:** Any Zoning Compliance Permit granted under this Article shall be null and void unless the development proposed shall have its first inspection within one (1) year from the date of granting the permit. It is the responsibility of the recipient of any approval granted pursuant to the terms of this ordinance to notify the Zoning Administrator, 30 days prior to the expiration of any permit issued by the Township requesting an extension. Failure to contact the Zoning Administrator, in writing, requesting an extension shall void the permit immediately upon the expiration date.

E. **Fees, Charges, and Expenses:** The Township Board shall establish a schedule of fees charges, and expenses and a collection procedure for Zoning Compliance Permits, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be on file in the Township Clerk and Zoning Administrator offices and may be altered or amended only by the Township Board. No permit, certificate, special use approval, or variance shall be issued until such costs, charges, fees or expenses listed in this Ordinance have been paid in full according to the provisions of the resolution establishing the fee schedule, nor shall any action be taken on proceedings before the Zoning Board of Appeals, until all applicable charges and fees have been paid in full.

F. **Inspection:** The construction or usage affected by any Zoning Compliance Permit shall be subject to the following inspections:

1. At the time of staking out a building foundation or the location of a structure.
2. Upon completion of the construction authorized by the Zoning Compliance Permit.

3. It shall be the duty of the holder of every Zoning Compliance Permit to notice the Zoning Administrator when construction is ready for inspection. Upon receipt of such notification for the first inspection, the Zoning Administrator shall determine whether the location of the proposed building(s) and structure(s), as indicated by corner and location stakes, is in accordance with yard setbacks and other requirements of the Ordinance, the Zoning Administrator shall issue his written approval at the time of inspection if the building or proposed construction meets the requirements of this Ordinance.
4. Should the Zoning Administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provision of this Ordinance, or any other applicable law, he shall so notify, in writing, the holder of the permit or his agent. Further construction shall be stayed until correction of the defects set forth has been accomplished and approved upon notice and request for re-inspection by the applicant and those inspections completed and compliance certified in writing by the Zoning Administrator.
5. Should a Zoning Compliance Permit holder fail to comply with the requirements of the Zoning Administrator at any inspection stage, the Zoning Administrator shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance requirements, and such posting shall be considered as service upon the notice to the permit holder of cancellation thereof; and no further work upon said construction shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

Section 26.06 - Nuisance Per Se

Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

Section 26.07 - Penalties

Any person, partnership, corporation, or association who creates or maintains a nuisance per se as defined in Section 26.06 above, shall be guilty of a misdemeanor punishable by imprisonment in jail for not more than 90 days, or the maximum fine established by a court of competent jurisdiction or both such imprisonment and fine, together with the cost of prosecution that such violation continues shall constitute a separate and distinct violation under the provisions of this Ordinance. A prosecution under this section shall be commenced by an appearance ticket signed by the Zoning Administrator, or other official designated by the Township Board, or by a

complaint and warrant issued by the Trial Court of Van Buren County. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

Section 26.08 - Abatement of Nuisance

In addition to the criminal penalties provided in this Ordinance, the Township may initiate proceedings in Trial Court of Van Buren County to abate or eliminate the nuisance.

Section 26.09 - Show Cause Hearing

Before initiating or requesting enforcement action under this Ordinance, the Township Board, Zoning Board of Appeals, or Planning Commission may, but is not required to, issue a notice of hearing directed to the person, partnership, corporation, or association alleged to be in violation of this Ordinance. The purpose of this hearing is to grant to the alleged violator(s) an opportunity to show cause why enforcement action should not be commenced. The notice issued pursuant to this section shall note the date, time, and location of the hearing. The notice shall be sent to the alleged violator(s) by first class mail at the last known address as appears on the tax assessment rolls or at a different address known to the Township to be the address of the alleged violator(s). Any alleged violator served with a notice of hearing as provided in this section shall not be required to attend the hearing.

**ARTICLE XXVII
ZONING BOARD OF APPEALS**

Section 27.01 - Establishment of Board of Appeals

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by Section 601, P. A. 110 of 2006, as amended, the “Michigan Zoning Enabling Act”, and as provided in this Ordinance in such a way that the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

Section 27.02 - Membership and Terms of Office

A. Regular Members

The Zoning Board of Appeals (ZBA) shall consist of three (3) members. The first member of the ZBA shall be a member of the Township Planning Commission, to be appointed by the Planning Commission, for his or her term(s) of office; the second member may be a member of the Township Board, selected by the Township Board for his or her term(s) of office; and the at-large member shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township for a term of three (3) years. No elected officer of the Township or any employee of the Township Board shall be appointed to this at-large position on the ZBA. The Chairman of the Zoning Board of Appeals shall be elected from among its members each year at the first regular meeting held at the beginning of each calendar year. The Township Board member appointed to the Zoning Board of Appeals shall not serve as Chairman nor shall the Township Planning Commission member serve as the Chairman if he or she also holds the position as Chairman of the Township Planning Commission.

B. Alternate Members

The Township Board may appoint two (2) alternate members for the same term as the regular members who may be called by the Chairman to serve in the absence of a regular member or upon the necessary abstention of a regular member to serve as a regular member of the Zoning Board of Appeals. In such cases the alternate member shall be afforded the same voting rights as a regular member and serve in the capacity as a regular member for the duration of a case until a final decision is made.

C. Removal

A member of the ZBA may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. 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.

D. Conflict of Interest with Multiple Votes

A member of the ZBA who is also a member of the Planning Commission or Township Board shall not participate in a public hearing on a or vote on the same matter that the member voted on as a member of the Planning Commission or Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

Section 27.03 - Rules of Procedure, Majority Vote

The Board may adopt its own bylaws or rules and procedures as may be necessary to properly conduct its meetings and activities. The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance due to practical difficulties.

Section 27.04 - Meetings

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman or by any two (2) of its members, excluding alternate members, and at such other times as the Board in its bylaws may specify. The ZBA shall not conduct business unless a majority of the regular members of the ZBA is present.

Section 27.05 - Public Meetings and Minutes

All meetings of the Zoning Board of Appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the record of the final disposition of each case. The grounds or reasons of every determination shall be stated, in writing, and recorded as part of the official minutes and record of the Board. Such minutes shall accompany and be attached to the standard forms required of persons appearing before the Zoning Board of Appeals as part of the Board's permanent records. Such minutes shall be filed in the office of the Township Clerk and shall be sent promptly to the applicant or appellant and to the Zoning Administrator. The Township Clerk shall act as the depository for all official files of the Zoning Board of Appeals.

Section 27.06 - Powers and Duties

The Zoning Board of Appeals shall have powers to interpret the provisions of this Ordinance, to grant variances from the strict application of any provisions of this Ordinance, and as otherwise provided in this Ordinance.

- A. The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by the Zoning Administrator in the administration of this Ordinance as hereinafter provided, and shall have power to interpret the provisions of this Ordinance and to grant variances from the strict application of any of the provisions of this Ordinance as follows:

1. To decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty about its location.
2. To grant variances from any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties resulting from such strict application. No variance shall be granted to permit the establishment within a district of any use which is specifically not included or is prohibited for which a special use approval is required.
3. To permit the erection and use of a building, or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or larger area than the requirements herein established; and permit the location in any district of a public utility building, structure or use, if the Commission shall find the use, height, area, building or structure reasonably necessary for the public convenience and service; and provided that such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and environmental character of the District in which it is to be located.
4. Determine the classification of off-street parking and loading requirements in Article XVIII, Section 18.09.

Section 27.07 - Variances

A variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

- A. A written application for a variance is submitted by a fee owner and other owners or a designated representative, demonstrating:
 1. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same Zoning district so as to present such a unique situation that a precedent will not be established for other properties in the District to also ask the same or similar change through the Zoning Appeal procedure.
 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same Zoning district under the provisions of this Ordinance.
 3. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this Ordinance to other lands, structures, or buildings in the same Zoning District.

- B. The Zoning Board of Appeals shall make findings that the requirements of this Ordinance have been met in the zoning district in which it is located by the applicant for the variance requested.
- C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.
- D. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious or otherwise detrimental to the public welfare of the zoning district in which it is to be located.
- E. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order for the variance to be in conformance with this Ordinance as much as reasonably possible. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Sections 26.07 through 26.09 of this Ordinance.
- F. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district in which the variance requested is to be located.
- G. In making the above determinations the Zoning Board of Appeals shall refer to the following considerations:
 - 1. The requested variance is applicable to only the property under the ownership control of the applicant.
 - 2. The requested variance is not the result of an action taken by the applicant to specifically create the conditions leading to the request.
 - 3. The requested appeal will not be contrary to the intent and purpose of any part of this Zoning Ordinance.
 - 4. The requested variance(s) will be the minimum variance(s) required to allow the property owner to overcome the adversity created by the Zoning Ordinance to the extent that the property cannot be used for any reasonable purpose.

5. The requested variance will overcome the possibility of economic considerations to the extent that confiscation or the lack of reasonable profitability of the property will not result, but, if the variance is requested to simply make its use unreasonably valuable, or profitable, the variance has no standing if it is found that these are the only reasons the variance is requested.
6. The requested variance, if granted, is based primarily on the fact that the property in question is unique or different from all other properties in the same Zoning district as to find it necessary to grant the variance in order to give the unique property the same privileges of use as that which is both permitted and enjoyed by all other properties in the same District.
7. The requested variance, if granted, will not create a precedent which can be applied generally to other properties in the same District, so as to establish through the precedent, what in effect could become and should be legislative action to amend the Zoning Ordinance rather than to create the possibility of granting variances over and over again for the same reason.
8. The request, if granted, will not cause a substantial adverse effect upon adjacent properties in the District or the Zoning Ordinance itself in a more general way.
9. The requested variance will not unreasonably alter the essential character of the Zoning district in which it is located as to either dimensional requirements or permitted uses.
10. The requested variance will not create a hazard to the public health, safety and general welfare of the persons in the Zoning district and the Township generally.
11. The requested variance will not produce nuisance conditions to the occupants of adjacent properties and the surrounding area in terms of the emission of noise, odor, dust, smoke, vibration, glare, heat or inconsistent or untimely activity in relation to that normally associated with the permitted use activities in the District.
12. The requested variance will not add substantially more to the generation of traffic than that which is generated by other permitted uses in the District.
13. That the requested variance, if dimensional in nature, is the result of conditions existing in relation to a lot or parcel, but not of the creation of the applicant, including such possibilities as narrowness, shallowness or irregular shape of the lot due to platting or parceling prior to the enactment of this zoning ordinance, or if the lot or parcel has unusual natural characteristics such as topography, water

features, wetlands, vegetation, geological or soil conditions, historical, archaeological or other unusual features, etc.

Section 27.08 - Voiding of and Re-application for Variances

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the use and construction authorized by such variance or permit has been commenced within one (1) year after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Board of Appeals to be valid.

Section 27.09 - Procedure for Appealing to the Zoning Board of Appeals

- A. **Appeals, How Taken:** Appeals from the ruling of the Township Zoning Administrator may be made to the Zoning Board of Appeals in the following manner:
 - 1. The person, firm or agent thereof making the appeal shall include the fee owner of the property in question and others and shall file in writing to the Township Clerk a letter stating what the specific appeal is and the reasons for said appeal. The appeal shall be filed by not less than 30 days prior to regular monthly meeting of the Zoning Board of Appeals.
 - 2. The Township Clerk submits the written appeal, along with all papers constituting the record from which the action appealed was taken, to the Zoning Board of Appeals.
- B. **Who May Appeal:** Appeals to the Zoning Board of Appeals may be taken by any property owner which has been aggrieved by an officer, board, agency, or bureau of the Township on the matter of zoning decisions. The aggrieved property owner may choose to designate a representative to conduct the appeal. **Revised 09-14-2016**
- C. **Fee for Appeal:** A fee prescribed by the Township Board shall be submitted to the Township Clerk at the time of filing the letter of appeals.
- D. **Effect of Appeal:** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Zoning Board of Appeals, after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the **Circuit**

Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

Section 27.10 - Hearing by the Zoning Board of Appeals

When a request for variance, appeal, or other action by the ZBA requiring a public hearing has been filed in proper form with the Township, the Secretary, or his or her designee, shall immediately place the request upon the calendar for hearing. A notice of the public hearing shall be published in a newspaper of general circulation in the Township not less than 15 days before the date of the hearing. A notice shall also be sent by mail or personal delivery to the owners of property that is the subject of the request. Written notice shall be sent to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the structure is located in Almena Township. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit owned or leased by different persons, one (1) occupant of each unit shall be given notice. If a single structure contains more than four (4) dwelling units owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.

The notice shall do all of the following:

- A. Describe the nature of the request.
- B. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- C. State when and where the request will be considered.
- D. Indicate when and where written comments will be received concerning the request.

Section 27.11 - Representation at Hearing

During a hearing, the fee property owner shall appear in person or by a designated representative, including an attorney, engineer, architect, planner, landscape architect, realtor, or other representative designated by the fee or other owner(s) of the parcel in question. **Revised 09-14-2016**

Section 27.12 - Board of Appeals Action

The Zoning Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premise and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken. The Zoning Board of Appeals decision shall be in the form of a motion containing a full record of the findings and determination of the Zoning Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court of Van Buren County on questions of law and fact. Such appeals shall be made in accordance with the requirements of P.A. 110 of 2006, as amended.

Section 27.13 - Delay Required in Issuing Zoning Permits

An aggrieved party to a zoning variance decision must file their appeal of the Zoning Board of Appeals decision to the Circuit Court of Van Buren County within 30 days after the ZBA issues its decision in writing, signed by either the Chair of the ZBA or the rest of the Board, or within 21 days of the approval of the minutes from the meeting at which the decision was made. If the Township receives notice of an appeal within that period, no further action shall be taken by the Zoning Administrator until the matter has been heard and decided by the Circuit Court.

**ARTICLE XXVIII
AMENDING THE ZONING ORDINANCE**

Section 28.01 - Changes and Amendments

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

Section 28.02 - Procedures

The procedure for making amendments to this Ordinance shall be in accordance with the Michigan Zoning Enabling Act, P. A. 110 of 2006, as amended.

A petition prepared and submitted by any qualified applicant, the Township Board or the Township Planning Commission, together with a completed and signed application and any required fees (if applicable), shall be filed with the Township Zoning Administrator. The petition shall be filed by the petitioner not less than 20) days prior to regular monthly meeting of the Planning Commission. The Zoning Administrator shall review the application as to form and, when it is approved, transmit same to the Township Planning Commission for review and report. The Zoning Administrator shall, at the same time, establish a date for a public hearing on the petition for the Planning Commission and shall give proper notice of the hearing as provided in Public Act 110 of 2006, the Michigan Zoning Enabling Act, as amended.

Section 28.03 - Notice of Public Hearing and Content of Notice

The Zoning Administrator shall give Notice of Public Hearing in the following manner:

- A A public hearing notice on the proposed Ordinance amendment (including amendments to the zoning map) shall be published in a newspaper of general circulation in the Township not less than 15 days before the date of the hearing.
 - 1. If an individual property, or 10 or fewer adjacent properties, is included in the proposal for rezoning, a notice must be published as required above, and a notice shall also be sent by mail or personal delivery to the owners of property that is the subject of the request. Written notice shall be sent to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request, and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in Almena Township. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is

considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.

The notice shall do all of the following:

- a. Describe the nature of the request.
 - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c. State when and where the request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
2. If 11 or more adjacent properties are included in the proposal, a notice must be published in the newspaper as required above but need not be distributed to adjacent properties as provided in paragraph (1).

The notice shall do all of the following:

- a. Describe the nature of the request.
 - b. Indicate the property that is the subject of the request.
 - c. State when and where the request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
- B. In addition to the required public hearing before the Planning Commission, the Township Board shall grant a public hearing on the proposed Ordinance amendment to an interested property owner who requests a hearing by certified mail, addressed to the Township Clerk. Written notice of the public hearing shall be given to the interested property owner. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date

the request will be considered. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.

The notice shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.

Section 28.04 - Information Required

The applicant shall submit a detailed description of and the reasons for the requested zoning change to the Township Zoning Administrator. When the application involves a change in the Zoning District Map, the applicant shall submit the following information:

- A. The legal description of the property.
- B. A scaled map or plot of survey of the property, which correlates with the legal description, and an area map clearly showing the property’s location with the certified signature of the owner affixed to the application for rezoning.
- C. The name and address of the petitioner.
- D. The applicant’s interest in the property, and if the applicant is not the owner, the name and address of the owner with the signatures of all of the owners affixed to the petition requesting the zoning change.
- E. Date of filing with the Township.
- F. Signature(s) of the applicant(s) and all of the owner(s) certifying the accuracy of the information contained in the application.
- G. A complete description of the requested change and the reasons for wanting the change in zoning from that which the Zoning Ordinance text or Zoning District Map already provides.

Section 28.05 - Steps in Making a Change

- A. The petitioner submits application and fee to the Township Zoning Administrator.
- B. Zoning Administrator transmits application to Planning Commission, sets hearing date, and publishes notices of hearing.
- C. Planning Commission holds hearing, makes its decision stating its reasons in the official written record, and transmits the record of its decision as its recommendation to the County Planning Commission and to the Township Board.
- D. Township Board reviews Township Planning Commission’s recommendation and those of the County Planning Commission and either enacts, rejects or enacts with changes the proposed change as an Ordinance amendment, and, if approved, publishes notice of the change in a newspaper of general circulation in the Township as required by the Michigan Zoning Enabling Act, P.A. 110, of 2000, as amended.

Section 28.06 - Findings of Facts Required

In reviewing an application for a zoning change, the Planning Commission shall identify and evaluate all factors relevant to the requested change, and shall report its findings in full, along with its recommendations for disposition of the requested change, to the Township Board within 60 days of the filing date of the application. The facts to be considered by the Planning Commission shall include, but not be limited to, the following:

- A. Whether the requested zoning change is justified because of a change in conditions since the original ordinance was adopted or because of an error in the original ordinance.
- B. The precedents and the possible effects of such precedents, which might likely result from approval or denial of the application.
- C. The compatibility of the requested amendment with the Township or other government agencies which provide any services, facilities, and/or programs that might be required if the application were approved.
- D. Effect of approval of the application on adopted development, policies of the Township and other government units.
- E. All findings of fact, conclusions and reasons for approval or denial shall be made a part of the official published public records of the meetings of the Planning Commission and Township Board. A zoning amendment shall not be approved, unless all identified facts are affirmatively resolved that they are needed to preserve and protect the general health, safety, welfare, comfort and convenience of the citizens of the Township, or of other civil divisions, if applicable.

**ARTICLE XXIX
SEVERABILITY**

Section 29.01 - Severance Clause

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

**ARTICLE XXX
ADOPTION AND EFFECTIVE DATE OF ORDINANCE**

Section 30.01 - Effective Date of Ordinance

This Ordinance shall become effective seven days after publication of its adoption in a newspaper of general circulation in the Township following passage by the Township Board of the Township of Almena, Van Buren County, Michigan.

Made and passed by the Township Board of the Township of Almena, Van Buren County, Michigan on this 13th day of October, 2009.

- A. Date of Publication of Notice of Public Hearing: July 17, 2009.
- B. Date of Public Hearing by Planning Commission: August 3, 2009.
- C. Date of Review by County Planning Commission: August 26, 2009.
- D. Date of Adoption by Township Board: October 13, 2009.
- E. Date of Publication of Notice of Adoption: October 16, 2009.
- F. Date Ordinance Shall Take Effect: October 23, 2009.

Attest:

Douglas Stiles
Township Supervisor

Sandra Rickli
Township Clerk

Almena Township

Summary of Accessory Building Regulations

March 17, 2021

1. An accessory building cannot be placed on a lot or parcel without a principal building (Section 2.02).
2. Maximum building (rooftop) coverage on a lot or parcel (Section 11.01):
 - a. 20%- AG Zoning District
 - b. 30%- AGMD, AGLD Zoning Districts
 - c. 40%- WR Zoning District
 - d. 50%- C Zoning Districts
 - e. 80%- AS Zoning District
3. Setbacks are the same as those applicable to principal buildings (Section 11.01 and Section 17.12 B):
 - a. Front- 50 feet from right-of-way or 83' from centerline of road (same)
 - b. Side- 20 feet
 - c. Rear- 25 feet
 - d. Separation from other buildings- 10 feet
4. Maximum total combined square footage of accessory buildings (Section 17.12 C):
 - a. Lots less than two acres: total area of accessory buildings cannot exceed the ground floor square footage of the principal dwelling
 - b. Lots two acres or more: no square footage limitations, but other requirements must be met
5. Maximum height is 35 feet (Section 11.01 and Section 17.12 F):
6. An accessory building can be placed in any location on a property, as long as all other requirements are satisfied.
7. In platted subdivisions or site condominium developments, covenants and restrictions or the master deed may place further private restrictions on accessory buildings. It is the responsibility of the applicant to confirm private restrictions.
8. Agricultural accessory buildings are exempt from these requirements, aside from building setbacks. The applicant shall demonstrate that the sole use of the building is intended for commercial agricultural production.

**ALMENA TOWNSHIP
ORDINANCE NO. 2020-01**

At a regular meeting of the Almena Township Board held at the Almena Township Hall on the 8th day of January 2020, at 4:00 p.m.

PRESENT: Greg Babik, Sheri Manning, Mark Roman, Kelly Redmond, Sandra Rickli, and Bill Vantassel

ABSENT: Tim Kloosterman_____

The following ordinance was offered by Member Mark Roman and supported by Member Greg Babik :

AN ORDINANCE TO AMEND SECTION 2.02, SECTION 9.01, AND ARTICLE XVII OF THE ALMENA TOWNSHIP ZONING ORDINANCE

Section 1. Section 2.02 Definitions. Section 2.02 of the Almena Township Zoning Ordinance is amended to include the following definitions in alphabetical order:

Accessory Building-Mounted Solar Energy System - A solar energy collector attached to the roof or wall of a building.

Accessory Ground-Mounted Solar Energy System - A solar energy collector that is mounted directly to a support structure on the ground and is not connected to a building. The system is intended to generate energy for the principal and accessory land uses and buildings on the parcel of land on which the system is located.

Commercial Solar Energy System - A utility-scale facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Also known as a solar farm.

Solar Energy Collector - A panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal, or chemical energy.

Section 2. Section 9.01 Intent. The second set of alphabetized paragraphs in Section 9.01, A-C, are amended to read as follows:

A. C-1. The intent of this district is to allow for businesses and uses that are appropriate on a state road corridor through the heart of the township. Although commercial use is not reflected on the Future Land Use Map for this area, it has been historically designated as commercial on the Zoning Map. Due to the lower elevations, high water table, prevalent wetlands, and its location within the North Branch of the Paw Paw River watershed, commercial development in this area is intended to be limited.

B. C-2. The intent of this district is to allow very limited commercial development options for an area historically zoned for commercial use. Because this area is not reflected on the Future Land Use map and is in close proximity to residential uses, the uses and building options are more limited and restricted than in C-1 and C-3.

C. C-3. At the intersection of two state highways, this crossroads development node is intended to allow for a full range of business and uses, based its environmental suitability for development, access to state roads, and historic commercial development pattern extending out from the intersection.

Section 3. Section Article XVII General Provisions. Article XVII is amended to include a new Section 17.39 Accessory Solar Energy Systems, to read in its entirety as follows:

Section 17.39 Accessory Solar Energy Systems

A. Applicability. 1. This section authorizes and regulates accessory building-mounted and ground-mounted solar energy systems in all zoning districts.

2. This section does not permit commercial solar energy systems.

3. This section does not apply to smaller-scale solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than six (6) feet above the ground.

B. Application and Review. 1. In addition to all other required application contents for zoning and building permits, equipment and unit renderings, plans, and manufacturer's installation directions shall be submitted for review.

2. Building-mounted solar energy systems shall be approved administratively by the Township Building Official.

3. Accessory ground-mounted solar energy systems shall be approved administratively by the Zoning Administrator and the Building Official.

C. Accessory Building-Mounted Solar Energy Systems. Systems are permitted on all buildings, as long as all components comply with required building setbacks and maximum height requirements for buildings.

D. Accessory Ground-Mounted Solar Energy Systems. 1. Glare and Reflection. The exterior surfaces of solar energy collectors shall be substantially non-reflective of light. A system shall not be installed or located in a manner that directs glare onto neighboring dwellings or adjacent streets.

2. Location. Systems shall be placed in rear yards unless existing vegetation and other site constraints make rear yard placement unfeasible. The Zoning Administrator shall refer side and front yard placement requests to the Planning

Commission in cases where there is a higher likelihood of visual impact to nearby residents. 3. Installation. Systems shall be installed, maintained, and used only in accordance with the manufacturer's directions.

4. Wires. All wires shall be buried underground. Overhead wires are prohibited.

5. Setbacks. Accessory ground-mounted solar energy systems shall be subject to the setbacks required for principal buildings. Measurement shall be taken from the outermost edge of all system components to the applicable property line.

6. Maximum Number. One (1) accessory ground-mounted solar energy system and its associated support structure are permitted per parcel.

7. Maximum Size. Systems shall be no larger than the square footage required to provide power to a residence and accessory buildings on a parcel but shall not exceed 1,500 square feet of collector panels. Proposed system power generation specifications shall be provided by the applicant for review.

8. Maximum Height. The maximum height of a system at its highest point, or at full tilt, shall be 16 feet. Height is measured from the natural grade below the system to the highest point of the panels or any part of the support structure, whichever is greater.

9. Abandonment and Removal. a. Systems that cease to produce energy continuously for 12 months will be considered abandoned by the Township unless the landowner provides a plan before the end of the 12-month period to reinstate the operation of the system. If the system remains non-functional after six (6) additional months, it shall be determined as abandoned.

b. The landowner shall remove the support structure, panels, and all equipment and restore the site to its condition prior to installation of the system within one (1) year of abandonment.

Section 4. Severability. The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

Section 5. Effective Date. This ordinance shall be effective seven (7) days after the publication of a summary of its provisions in a local newspaper of general circulation in the Township.

AYES: Greg Babik, Mark Roman, Kelly Redmond, Sandra Rickli, Tim Kloosterman, Sheri Manning, and Bill Van Tassel

NAYS: None

ORDINANCE DECLARED ADOPTED.

Sandra Rickli

Sandra Rickli

Almena Township Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Township of Almena at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by

LAND SUBDIVISION REGULATIONS
FOR
PLATTED SUBDIVISIONS
AND
LOT SPLITS

In

ALMENA TOWNSHIP

prepared by the:
Planning Commission
Almena Township
Van Buren County, Michigan

with the assistance of:
Robert B. Hotaling and Associates
Professional Planning Consultants

August 1996

**ALMENA TOWNSHIP
TOWNSHIP OFFICIALS**

TOWNSHIP BOARD OF TRUSTEES

Joyce L. Hill, Supervisor
Josephine Burns, Clerk
Mary Jane Kandler, Treasurer
Clarence Bonter, Trustee
James Ross, Trustee

PLANNING COMMISSION

Ray Warren, Chairman
David Browning
Richard DeRoo
Joseph George
Connie Selles
John Thomas
Richard Wyrwa

ZONING BOARD OF APPEALS

Ray Warren, Chairman
Greg Francisco, Secretary
James Ross

LAND SUBDIVISION REGULATIONS ALMENA TOWNSHIP

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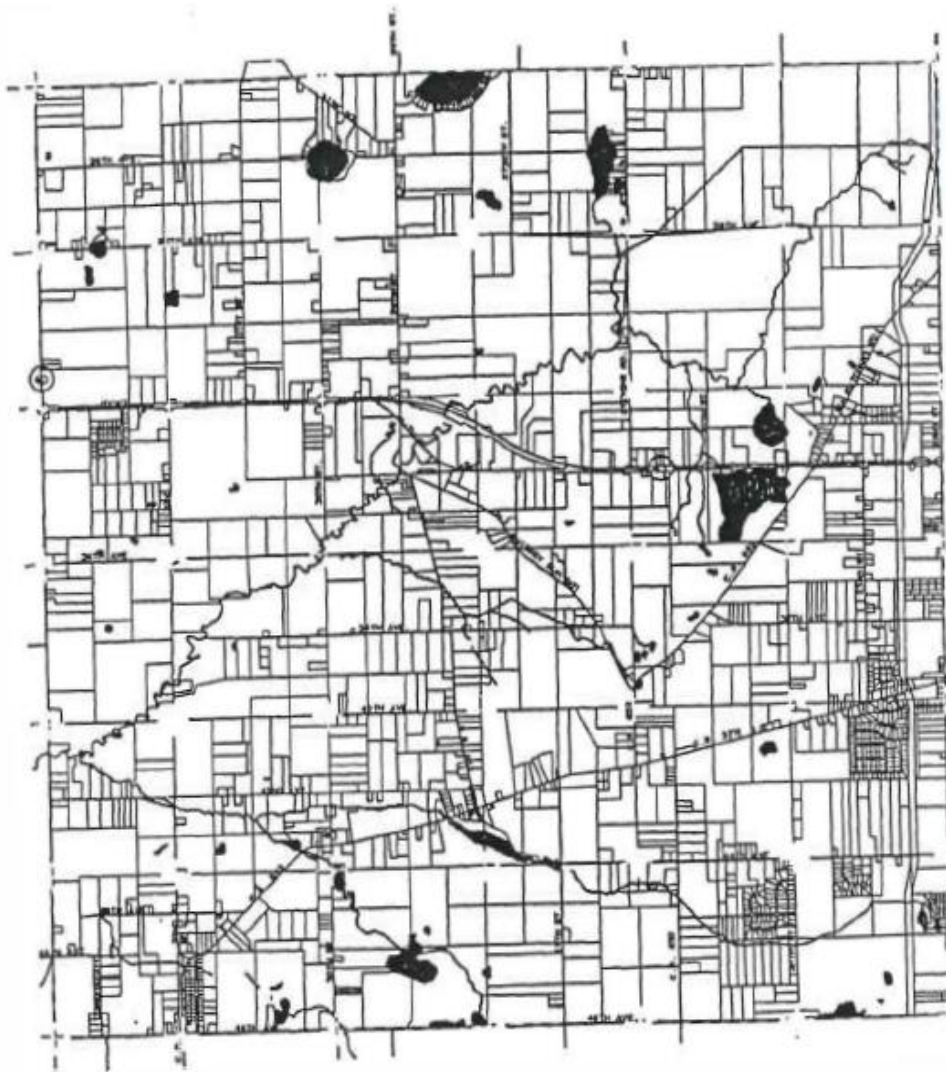
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MAP OF ALMENA TOWNSHIP



Scale = 1:60000

ALMENA TOWNSHIP LAND SUBDIVISION ORDINANCE

AN ORDINANCE REGULATING THE SUBDIVISION OF LAND IN THE TOWNSHIP OF ALMENA, REQUIRING AND REGULATING THE PREPARATION AND PRESENTATION OF PRE-PRELIMINARY, PRELIMINARY AND FINAL PLATS FOR SUCH PURPOSE; ESTABLISHING MINIMUM SUBDIVISION STANDARDS; PROVIDING FOR MINIMUM IMPROVEMENTS TO BE MADE OR GUARANTEED TO BE MADE BY THE SUBDIVIDER; SETTING FORTH THE PROCEDURES TO BE FOLLOWED BY THE TOWNSHIP BOARD AND TOWNSHIP PLANNING COMMISSION IN APPLYING THESE RULES, REGULATIONS AND STANDARDS; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS:

THE TOWNSHIP OF ALMENA ORDAINS:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 SHORT TITLE

This Ordinance shall be known and may be cited as the "Almena Township Subdivision Ordinance."

Section 1.2 PURPOSE

The purpose of this Ordinance is to regulate and control the subdivision of land within the Township of Almena in order to promote the safety, public health, and general welfare of the community. These regulations are specifically designed to:

- a) Provide for orderly growth and harmonious development of the community, consistent with orderly growth policies.
- b) Secure adequate traffic circulation through coordinated road systems with proper relation to major thoroughfares, adjoining subdivisions, utilities and facilities.
- c) Achieve individual lots with building sites which provide for maximum utility and livability.
- d) Insure adequate provisions for water, drainage, and sanitary sewer facilities, and other health requirements.
- e) Plan for the provision of adequate recreational areas, school sites, and other public facilities.

Section 1.3 LEGAL BASIS

This Ordinance is enacted pursuant to the statutory authority granted by the Subdivision Control Act of 1967, Act 288, P.A. 1967; Act 191, P.A. 1939 providing for publication of ordinances; Act 246, P.A. 1945, as amended, authorizing Township Boards to adopt ordinances and regulations to secure the public health, safety and general welfare.

Section 1.4 SCOPE

This Ordinance shall not retroactively apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this Ordinance except for the further subdividing of lots. Further, it is not the intention of this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances

or regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements, or with restrictive covenants, or other private agreements, or with restrictive covenants running with the land to which the Township is a party. Where this Ordinance imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance, of this Township, deed restrictions, covenants or private agreements, the provisions of this Ordinance shall control -in respect to all future land subdividing.

Section 1.5 ADMINISTRATION

The approval provisions of this Ordinance shall be administered by the Township Board in accordance with Act 288, P.A. 1967.

Section 1.6 SCHEDULE OF FEES

The schedule of fees for review of plats shall be as determined by resolution of the Township Board.

ARTICLE II - DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Ordinance, unless otherwise specifically stated. The word "shall" is always mandatory and not merely directory.

ALLEY: A public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

AS-BUILT PLANS: Revised construction plans in accordance with all approved field changes after construction has been completed and in place.

BLOCK: An area of land within a subdivision that is entirely bounded by roads, highways or other roadways, except alleys, and the exterior boundary or boundaries of the subdivision.

BUILDING LINE OR SETBACK LINE: A line parallel to a road right-of-way line, shore of a lake, edge of a stream or river bank, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and a right-of-way, other public area or the shore of a lake, or the edge of a stream or river bank.

CAPTION: The name by which the plat is legally and commonly known.

COMMERCIAL DEVELOPMENT: A planned commercial center providing building areas, parking areas, service areas, screen planting and widening, turning movement and safety land roadway improvements.

ALMENA TOWNSHIP MASTER PLAN: A plan adopted by the Township Planning Commission for the physical development of the Township showing the general location for land use, roads and highways, major parks, schools, public building sites, and other similar information. The plan may consist of text, maps, data, and other descriptive matter.

COUNTY DRAIN COMMISSIONER: The Van Buren County Drain Commissioner.

COUNTY HEALTH DEPARTMENT: The Van Buren County Health Department.

COUNTY PLAT BOARD: The Van Buren County Plat Board.

COUNTY ROAD COMMISSION: The Van Buren County Road Commission.

DATE OF FILING:

- a) Dating of filing for tentative approval of a preliminary plat is the date that the Township Clerk has received all the necessary information as specified in the Almena Township Land Subdivision Ordinance.
- b) Date of filing for final approval of the preliminary plat is the date the subdivider files the tentatively approved plat and a certified list of all authorities required for approval with the Township Clerk.
- c) Date of filing for final plat approval is the date the subdivider files the necessary prints of the final plat with the Township Clerk.

DEDICATION: The intentional appropriation of land by the owner to public use.

EASEMENT: A specific area of land over which a liberty, privilege, or advantage is granted by the owner to the public, a corporation, or some particular person or part of the public for specific uses and purposes, and which shall be designated a "public" or "private" easement, depending on the nature of the user.

FLOOD PLAIN: That area of land adjoining the channel of a river, stream; water course, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

FRONTAGE: The front part of a building or lot. The length of land measured along the road between property lines.

GOVERNING BODY: The Township Board of the Township of Almena.

GREENBELTS OR BUFFER PARKS: A strip or parcel of land, privately restricted or publicly dedicated as open space located between incompatible uses for the purpose of protecting and enhancing the residential environment.

IMPROVEMENTS: Any structure incident to servicing or furnishing facilities for a subdivision such as grading, road surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, and other appropriate items, with appurtenant construction.

INDUSTRIAL DEVELOPMENT: An area designed specifically for industrial use providing screened buffers, wider roads and turning movement and safety lane roadway improvements where necessary.

LOT: A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description, as on a subdivision or record of survey map or by metes and bounds, for the purpose of sale or lease to, or separate use of another.

LOT AREA: The total horizontal area of a lot or parcel, measured within the property lines of the lot or parcel, excluding the land within any road right-of-way but including the land within any easement.

LOT CORNER: The parcel of land at the junction of and fronting on two or more intersecting streets.

LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

LOT LINE: The boundary of a lot or parcel.

LOT WIDTH: The horizontal distance between the side lot lines measured at the setback line and at right angles to the lot depth.

OUTLOT: When included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site or for park or other land dedicated to public use or reserved to private use.

PARCEL OR TRACT: A continuous area or acreage of land which can be described as provided for in the Subdivision Control Act.

PLANNING COMMISSION: The Planning Commission of the Township of Almena as established under Act 184, Public Acts of 1959, as amended.

PLANNED UNIT DEVELOPMENT: A land area which has both individual building sites and common property, such as a park, and which is designated and developed under one (1) owner or organized groups as a single unit of development.

PLAT: A map or chart of a subdivision of land.

- a) Pre-Preliminary Plat: An informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.
- b) Preliminary Plat: A map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.
- c) Final Plat: A map of a subdivision of land made up in final form ready for final approval and recording.

PROPRIETOR, SUBDIVIDER OR DEVELOPER: A person, firm, association, partnership, corporation or combination of any of them which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the owner.

PUBLIC UTILITY: All persons, firms, corporations, co-partnerships, or municipal or other public authority providing gas, electricity, water, steam, telephone, telegraph, cable television, storm sewers, sanitary sewers, transportation, or other services of a similar nature.

PUBLIC OPEN SPACE: Land dedicated or surface water area reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, and community or public building sites.

PUBLIC WALKWAY: A right-of-way dedicated for the purpose of a pedestrian access through the interior of blocks and located so as to connect to two (2) or more roads, or a road and a public land parcel.

REPLAT: The process of changing the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing, the exterior boundaries of the outlot is not a replat.

RIGHT-OF-WAY: Land reserved, used, or to be used for a road, alley, walkway, or other public purposes.

ROAD: A right-of-way which provides for vehicular and pedestrian access to abutting properties and space for utilities.

- a) Freeway: Those highways designed for high speed, high volume through traffic, with completely controlled access, no grade crossings, no private driveway connections and local road access only at designated interchanges.
- b) Expressway: Those highways designed for high speed, high volume traffic, with full or partially controlled access, designated grade crossings but no driveway connections, or other access across the right-of-way line to abutting properties.
- c) Parkway: A road or highway designed for noncommercial, pleasure-oriented traffic moving at moderate speeds, between and through scenic areas and parks with full or partially controlled access.
- d) Arterial Road: Those roads extended over long distances which are used or may be used primarily for higher speeds and heavy traffic volumes.

- e) Collector Road: Those roads used to carry traffic between minor roads and arterial roads, including principal entrance roads to large residential and other types of extensive developments.
- f) Cul-de-sac: A minor dead-end road, not to exceed 660 feet in length, terminated by a vehicular turn-around.
- g) Marginal Access Road: A minor road which is generally parallel and adjacent to arterial roads and which provides access to abutting properties and provides protection from through traffic and does not carry through traffic.
- h) Minor Road: A road which carries only local traffic, and is intended to provide access to abutting properties.
- i) Road Width: The shortest distance between the lines delineating the right-of way of roads, highways and road easements.

SET-BACK LINE BUILDING: A line within a lot or other parcel of land in front of which the erection of an enclosed structure or portion thereof is prohibited. Zoning ordinances commonly require different set-backs for the front, rear and side of the lot.

SIGHT DISTANCE: The maximum safe distance an operator of a vehicle can see other traffic on intersecting streets, or at curves and hills.

SKETCH PLAN: A pre-preliminary plat.

SUBDIVIDE OR SUBDIVISION: The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his/her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division initially creates 5 or more parcels of land each of which is 10 acres or less in area; or 5 or more parcels of land each of which is 10 acres or less in area are created by successive divisions within a period of 10 years.

SUBDIVISION CONTROL ACT: Act 288, P.A. 1967, as amended, State of Michigan.

TOPOGRAPHICAL MAP: A map showing the existing physical characteristics of a lot or parcel of land showing contour lines at two (2) foot intervals.

TOWNSHIP: Almena Township of Van Buren County.

WATER RESOURCES COMMISSION: The Water Resources Commission of the Michigan Department of Natural Resources.

YARD: A term used in defining an area in zoning regulations referring to the open, unoccupied space on a lot with a building, located between a front, rear and side lot line and the most extended portion of a front, rear or side wall of a building.

ZONING: Zoning is the division of a community into zones or districts according to present or potential use of the properties for the purpose of controlling and directing the use and development of those properties.

ARTICLE III - PLATTING PROCEDURE AND INFORMATION REQUIRED

Section 3 .1 PRE-APPLICATION CONTACT AND SKETCH PLAN

3.11 PURPOSE

- A. To provide guidelines for the subdivider concerning development policies of the Township.
- B. To acquaint the subdivider with the platting procedures and requirements of:
 - 1. The Township Board and Planning Commission.
 - 2. Other agencies, e.g. Township, County, State, Federal and Other.
- C. To provide the Planning Commission and other affected agencies with general information concerning the proposed development.
- D. To accept the sketch plan does not assure acceptance of the preliminary plat but is for the purpose of exchanging information.

3.12 REQUIREMENTS:

- A. Pre-Preliminary Plat or Sketch Plan - The plan shall show the subdivision's entire development scheme in schematic form including the area for immediate development, and shall include the following:
 - 1. General layout of roads, blocks and lots in sketch form.
 - 2. Existing conditions and characteristics of the land on and adjacent to the site.
 - 3. All areas set aside for schools, parks and other community facilities.
- B. Feasibility Letter
 - 1. A letter from professional engineers or land surveyor determining the general feasibility of the land for subdividing.
- C. Ownership
 - 1. The Township Board and Planning Commission shall require such proof of ownership of the land proposed to be subdivided as they deem necessary.

3.13 PROCEDURE:

- A. The subdivider shall submit two (2) copies of the pre-preliminary plat to the Township Clerk ten (10) days before the next scheduled meeting of the Planning Commission.
- B. The Township Clerk shall transmit the two (2) copies of the pre-pre1iminary plat to the Planning Commission within three (3) days of receipt.

- C. The Planning Commission shall review the plan with the subdivider or his agent. The Planning Commission may require that copies of the prepreliminary plat be submitted to other affected public agencies for review.
- D. The Planning Commission shall inform the subdivider or his agent of the Township's development policies and make appropriate comments and suggestions concerning the proposed development scheme.
- E. The Planning Commission shall inform the Township Board of the results of the review of the pre-preliminary plat.

Section 3.2 PRELIMINARY PLATS

For approval under sections 112 to 120 of the Subdivision Control Act.

3.21 REQUIREMENTS:

- A. Submittal: The subdivider shall submit ten (10) copies of the preliminary plat on a topographic map to the Township Clerk at least ten (10) days before a scheduled meeting of the Planning Commission.
- B. Size and Scale: The preliminary plat may be on paper and shall be not less than 24 inches by 36 inches, at a scale of at least 1 inch to 100 feet showing the date and north arrow.
- C. Information Required: The following shall be shown in the preliminary plat or submitted with it.
 - 1) The name of the proposed subdivision.
 - 2) Names, addresses, and telephone numbers of the subdivider and the professional engineer or land surveyor preparing the plat.
 - 3) Location of the subdivision, giving the numbers of the section, township and range, and the name of the township and county.
 - 4) The names of abutting subdivisions.
 - 5) Statement of intended use of the land described on the proposed plat, such as, residential single family, two-family and multiple housing; commercial; industrial; recreational; or agricultural. Also proposed sites, if any, for multi-family dwellings, shopping centers, churches, industry, and other non-public uses exclusive of single-family dwellings. Also, any sites proposed for parks, playgrounds, schools, or other public uses, including easements.
 - 6) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development.
 - 7) A location map showing the relationship of the proposed plat to the surrounding area.
 - 8) The land use and existing zoning of the proposed subdivision and adjacent lots and parcels.
 - 9) Roads, road names, right-of-way and roadway widths.
 - 10) Lot lines and the total number of lots by block.

- 11) Contours shall be shown on the preliminary plat at 2 foot intervals where slope is 10% or less.
- 12) A site report as required in the rules of the State Department of Public Health, if the proposed subdivision is not to be served by public sewer and water systems.
- 13) Proposed and existing storm and sanitary sewers, water mains and their respective profiles, or indicate locations of septic tanks and wells.
- 14) Ten (10) copies of proposed protective covenants, deed restrictions, or state in writing that none are proposed.
- 15) Dedicated easements, showing location, width and purpose(s).

D. Preliminary Engineering Plans:

- 1) The subdivider shall submit ten (10) sets of preliminary engineering plans for roads, storm drainage water, sewers, sidewalks, and other required public improvements. The engineering plans shall contain enough information and detail to enable the Planning Commission to make preliminary determination as to conformance of the proposed improvements to applicable Township regulations and standards.

3.22 PROCEDURES:

- A. Validation: The subdivider shall first submit to the Township Clerk for validation ten (10) copies of the preliminary plat to meet the requirements of Sections 112 (1) and/or 113 to 119 of the Subdivision Control Act. The subdivider shall also submit a written application for approval and also the fee established by this Ordinance for review of plats.
- B. Tentative Approval: Once the subdivider has submitted the required copies to the Township Clerk, the Clerk shall forward the copies of the plat to the Planning Commission, within three (3) days, for their study and tentative approval.
 - 1) The Planning Commission shall distribute a copy of the preliminary plat to those related departments involved in providing public services for their review and comment. The Planning Commission in its report to the Township Board shall advise Township Board of these comments.
 - 2) Once the Planning Commission has reviewed the preliminary plat, the Planning Commission shall hold a public hearing and publish in a local newspaper a notice of public hearing at least eight (8) days prior to the date set for the public hearing.
 - 3) The Planning Commission shall give its report to the Township Board not more than sixty (60) days after submission of the preliminary plat to the Planning Commission.
 - (a) The 60 day period may be extended if the applicant consents. If no action is taken by the Planning Commission within 60 days, the preliminary plat shall be deemed to have been tentatively approved by the Planning Commission.

- 4) Within thirty (30) days from the date of Planning Commission action, the Township Board shall tentatively approve and note its approval on the preliminary plat to be returned to the subdivider, or set forth in writing, its reasons for rejection and requirements for acquiring tentative approval.
 - 5) Tentative approval under this section shall confer upon the subdivider for a period of one (1) year from date, approval of lot sizes, lot orientation and road layout. Such tentative approval may be extended if applied for by the subdivider and granted by the Township Board in writing from the Township Clerk.
- C. Distribution to Authorities: Upon receipt of tentative approval by the Township Board, the subdivider shall submit to the various approving authorities the number of validated copies of the preliminary plat required by Sections 112 to 119 of the Subdivision Control Act. The Township Clerk shall transmit a copy of the preliminary plat to the County Planning Commission and the School Board having jurisdiction in the area where the plat is located for their review, comment and recommendation.
- D. Filing of List of Public Agencies: The subdivider shall file with the Township Clerk a list of all public agencies to whom validated copies of the preliminary plat have been distributed.

3.23 ACTIONS:

- A. Preliminary Plat Review and Final Approval Governing Body
- 1) The subdivider shall file a valid preliminary plat, as tentatively approved by the Township Board, with the Township Clerk together with a certified list of all public agencies required for approval in Sections 112 to 119 of the Subdivision Control Act. The subdivider shall also provide approved copies of plats from each of the required public agencies along with any additional required information, application form, and fees.
 - 2) The Township Board shall take action on the preliminary plat at their next regular meeting or, within twenty (20) days of the submission.
 - 3) If the preliminary plat conforms substantially to the plat tentatively approved by the Township Board and meets all conditions laid down for tentative approval, the Township Board shall give final approval to the preliminary plat.
 - 4) The Township Clerk shall promptly notify the subdivider of approval or rejection in writing; if rejected, reasons shall be given and shall be recorded in the minutes of the Township Board pertaining thereto. A copy of the minutes shall be sent to the subdivider.

3.24 CONDITIONS AND DURATION OF APPROVAL:

- A. Conditions:
- 1) Approval of a preliminary plat shall not constitute approval of the final plat, but rather that final plat approval shall be conditioned on all requirements of this Ordinance being met.

B. Duration:

- 1) Approval of the preliminary plat by the Township Board shall be for a period of two (2) years from the date of its approval and after the dates of approval by the other required public agencies.
- 2) The Township Board may extend the two (2) year period if applied for and granted in writing but only concerning its own requirements.

Section 3.3 FINAL PLATS

3.31 REQUIREMENTS:

A. General

1. Final plats shall be prepared and submitted as provided for in the Subdivision Control Act.
2. A written application for approval and the recording fee shall accompany all final plats.
3. The subdivider shall submit proof of ownership of the land included in the final plat in the form of an abstract of title certified to the date of the proprietor's certificate, or a policy of title insurance currently in force.
4. The Township Board may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

B. Time of Submittal:

1. Final plats shall be submitted to the Township Clerk at least ten (10) days before a meeting of the Planning Commission.

3.32 PROCEDURES:

A. Submittal to Approving Authorities: The subdivider shall submit the final plat and as-built engineering plans required for approval by the following:

1. Van Buren County Road Commission: For approval or rejection.
2. Van Buren County Drain Commissioner: For approval or rejection.
3. Van Buren County Health Department: For issuance of a letter of approval or rejection.
4. Van Buren County Planning Commission (through the Township Clerk): For recommendations to the Township Board.
5. Township Clerk: For approval or rejection by the Township Board.

3.33 ACTIONS:

A. Planning Commission:

1. The Planning Commission shall examine the plat at its next regular meeting, or within thirty (30) days of receipt thereof determine its conformance to:
 - a. The provisions of the Subdivision Control Act.
 - b. The provisions of this Ordinance.
 - c. The preliminary plat, as approved.
2. The time for review and recommendations by the Planning Commission may be extended by agreement with the subdivider.
3. If the Planning Commission recommends disapproval of the plat to the Township Board, it shall state its reasons in its official minutes and forward same to the Township Board, and recommend that the Township Board disapprove the final plat until the objections causing disapproval have been changed to meet with the approval of the Planning Commission.
4. Recommendations for approval of the plat by the Township Board shall be accompanied by a report including its recommendations and comments.

B. Township Board:

1. The Township Board shall review the final plat and the report from the Planning Commission at its next regular meeting, or at a meeting to be called within twenty (20) days of receipt of the final plat from the Planning Commission.
2. The Township Board shall approve the plat, or disapprove it. If disapproved, the Township Board shall give the subdivider its reasons in writing and rebate the recording fee and the unused portion of the review fee.
3. The Township Board shall instruct the Township Clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection and to sign the municipal certificate on the approved plat in behalf of the Township Board.

C. Improvements and Facilities Required by the Township:

1. The Township Board may require all improvements and facilities to be completed in place before it approves the final plat.
2. If improvement and facilities are not required by the Township Board to be completed before plat approval, the final plat shall be accompanied by a contract between the subdivider and the Township Board for completion of all required improvements and facilities. Performance of the contract shall be guaranteed by a cash deposit, certified check, surety bond, or irrevocable bank letter of credit.
3. The Township Board shall not require a bond duplicating any bond required by another governmental agency.

4. Such surety shall be rebated or credited to the account of the subdivider as the work progresses, as included in a written agreement between the Township Board and the subdivider.

ARTICLE IV - SUBDIVISION DESIGN STANDARDS

Section 4.1 TRAFFICWAYS - ROADS

4.11 GENERAL

The standards set forth in this Ordinance shall be the minimum standards for roads and intersections. Any higher standards adopted by the Road Commission shall prevail. All roads shall be dedicated to public use.

The escrow deposit required in Section X of the Van Buren County Road Development Policy must be deposited with the County prior to the beginning of infrastructure construction. The estimated construction cost used to calculate the escrow deposit must be submitted to the Township, including evidence of County approval of the cost estimate. The timeline for dedicating the road to Van Buren County shall be submitted in writing to the Township prior to approval of the final plat.

4.12 LOCATION

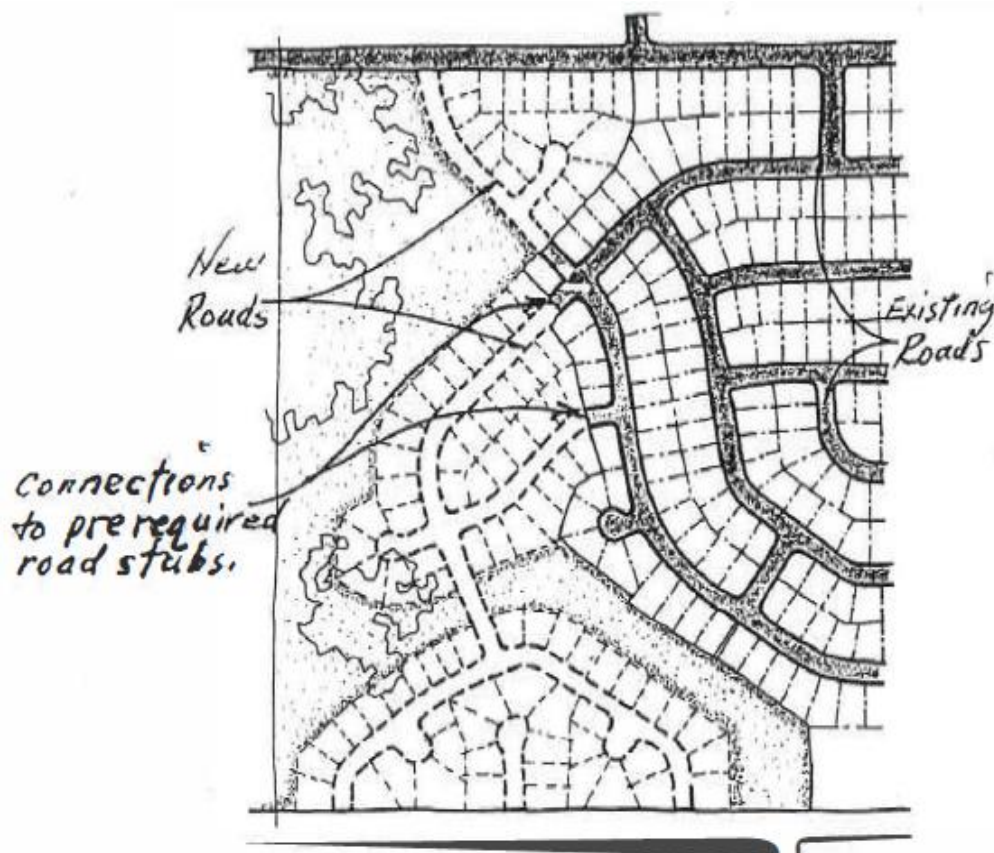
- A. Road Location and Arrangement: When a major road plan has been adopted, subdivision roads shall be required to conform to the plan.



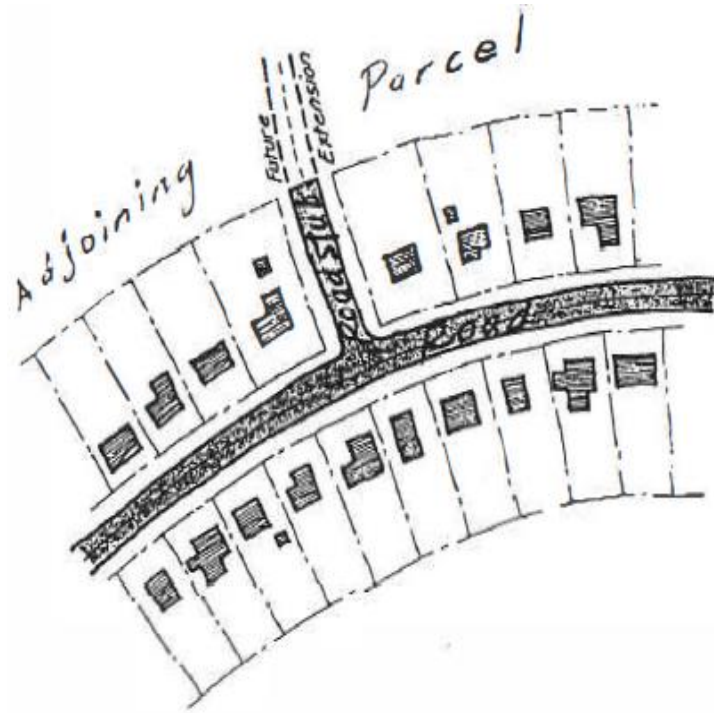
- B. Minor Roads: Minor roads shall be so arranged as to discourage their use by through traffic.



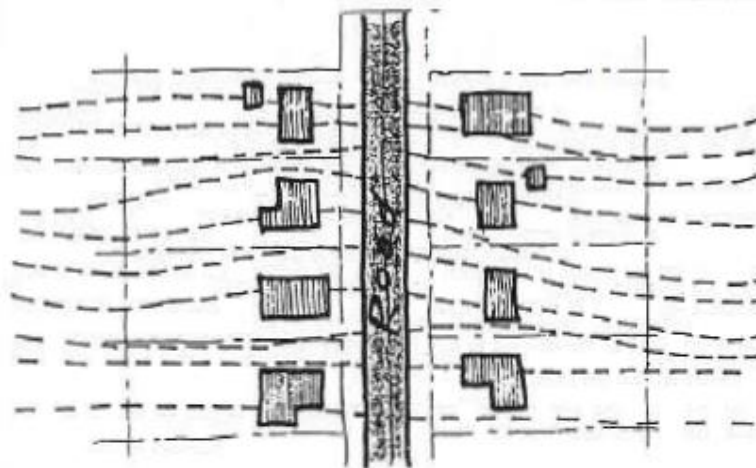
- C. Road Continuation and Extension: The arrangement of roads shall provide for the continuation of existing roads from adjoining areas into new subdivisions, unless otherwise approved by the Planning Commission and the Van Buren County Road Commission.



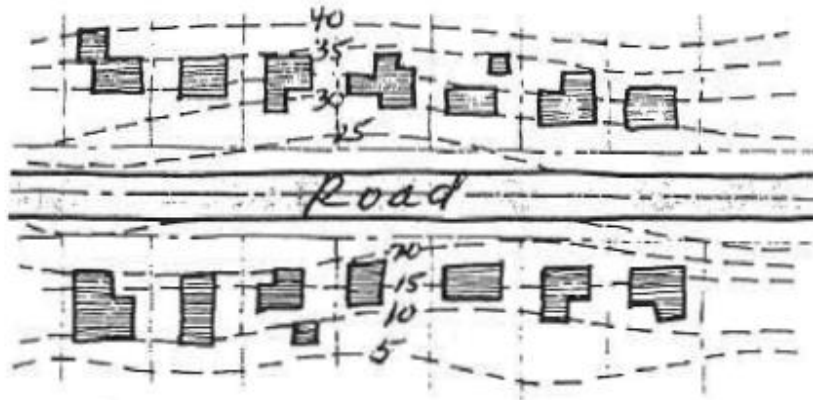
- D. Stub Roads: Where adjoining parcels of land are not subdivided, the arrangement of roads in new subdivisions shall be extended to the boundary line of the adjoining parcels in order to make provision for the future projection of roads into adjacent areas. (See Section 4.72.B for additional requirements.)



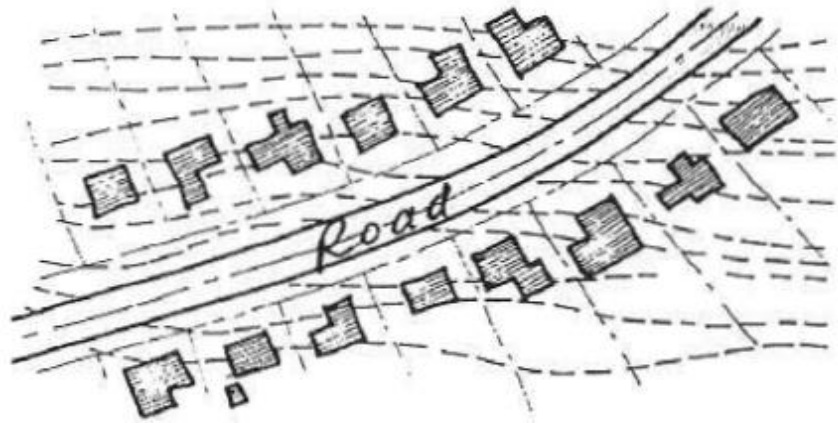
- E. Relation to Topography: Roads shall be arranged in proper relation to topography so as to result in usable lots, safe roads, and reasonable gradients.



poor - Roads running perpendicular to slope creates excessive grades for both roads and lots and the need for retaining walls between lots.

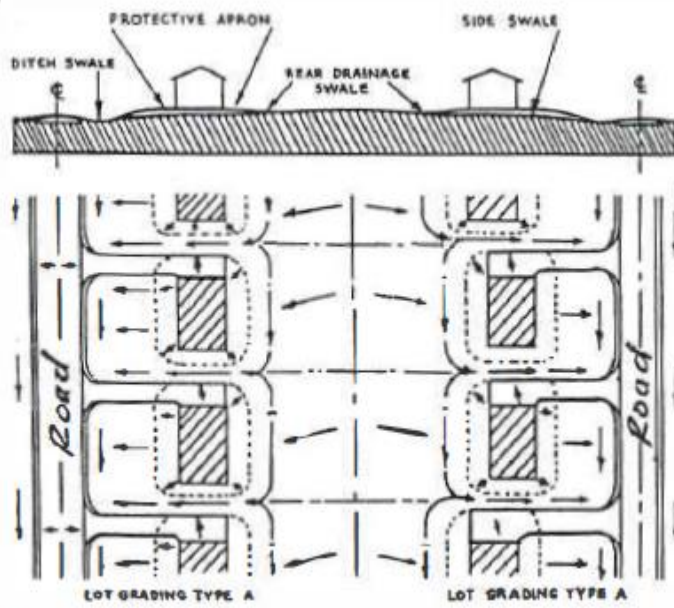


Poor - Lots on one side higher than other, retaining walls may be needed and steep driveways result.

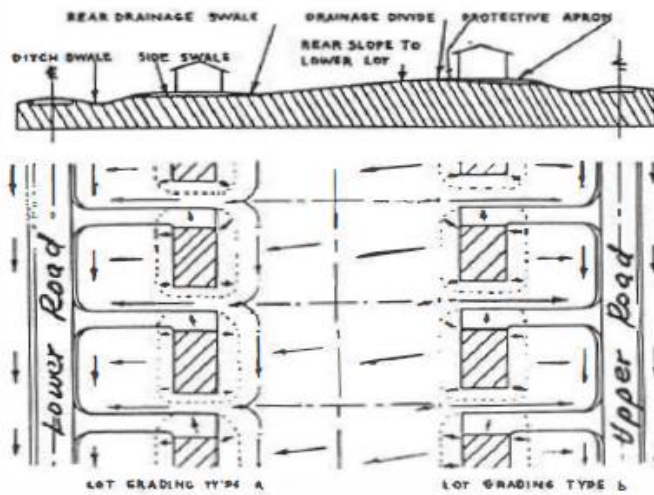


Good - Avoids excessive grades, costly retaining walls, and steep driveways.

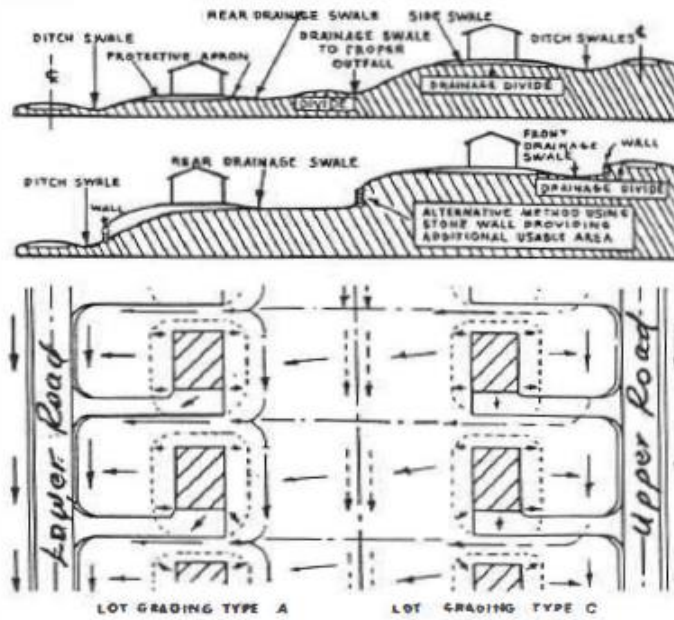
BLOCK GRADING using ditching swales



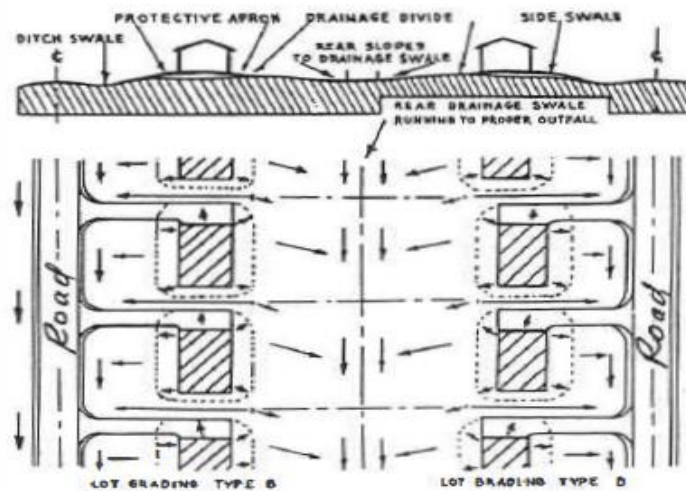
Block grading type 1 - ridge along rear lot lines



Block grading type 2 - gentle cross-slope

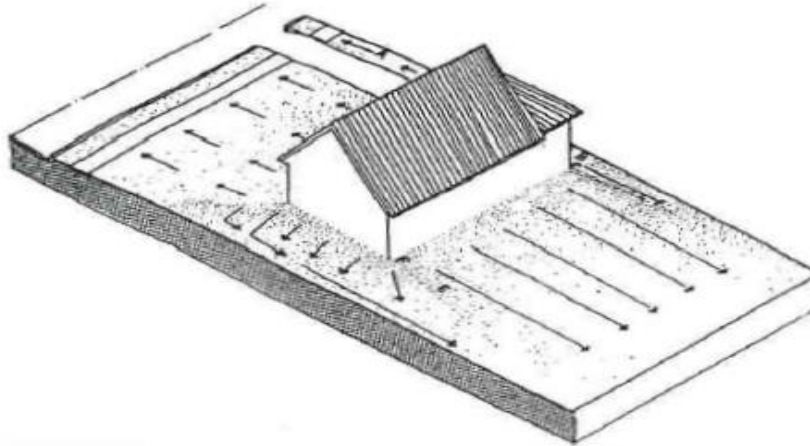
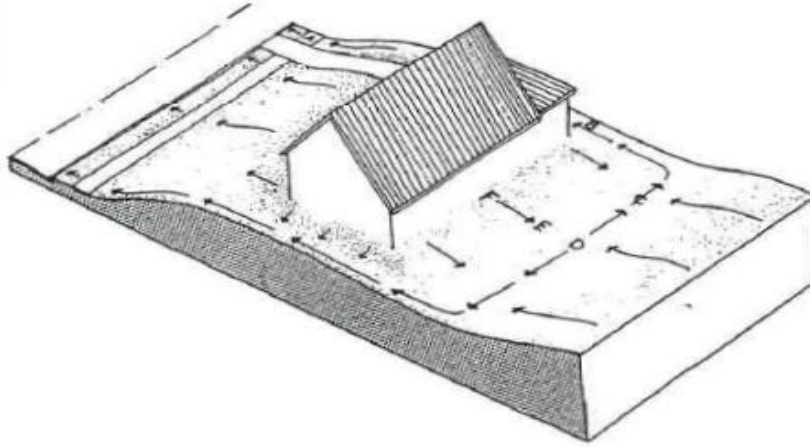


Block grading type 3 - steep cross-slope



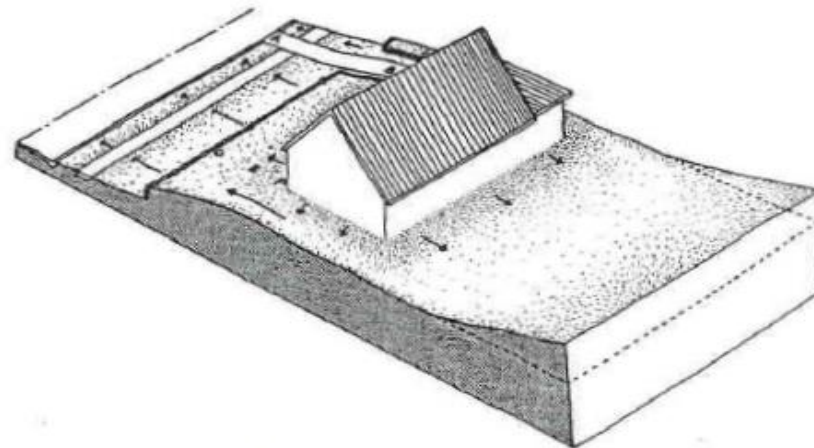
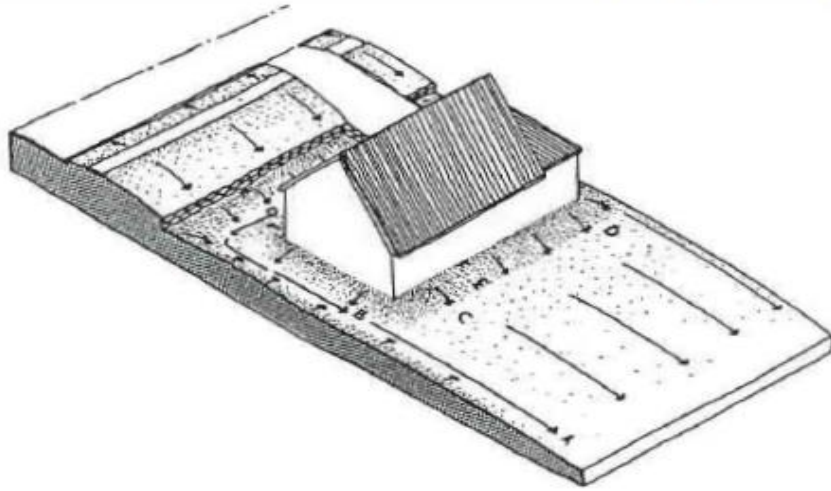
Block grading type 4 - valley along rear lot lines

*Lot grading type 1
All drainage to streets.*



*Lot grading type 2
Drainage both to street and
To rear lot line*

*Lot grading type 3
All drainage to rear lot line*

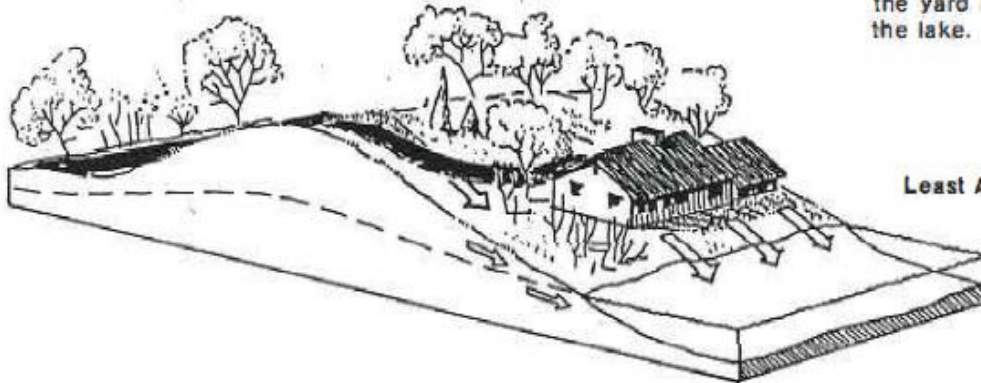
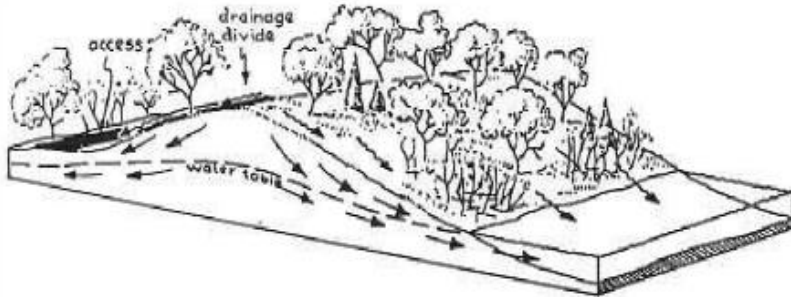


*Lot grading type 4 Where
steepness of grade to street
necessitates retaining wall*

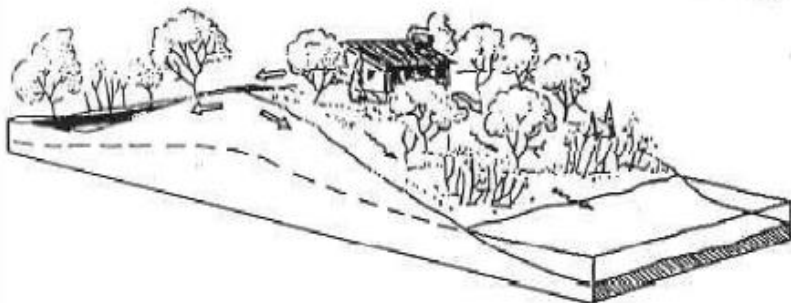
SETBACK FROM THE SHORE

For most of us it is difficult to resist the urge to live at the waters edge; however, from an environmental standpoint it is decidedly wiser to locate houses and cottages a considerable distance inland from the shoreline. As a general rule, it would be advisable for lake property owners to observe a setback from the bank of at least 200 feet. However, this rule need not be an abso-

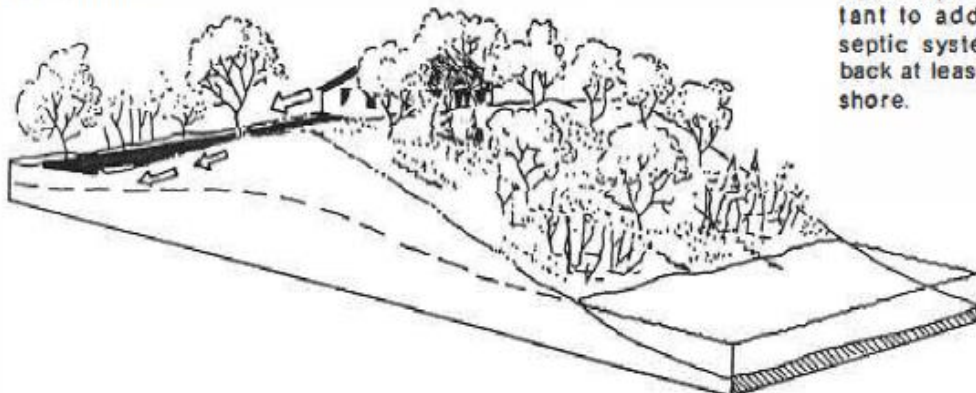
lute one, because where the terrain is varied, setback distance may be adjusted to the particular site conditions. For the site shown on the upper left, the critical condition is the location of the drainage divide. Should the house be built on the lake side of the divide, as is shown in the second drawing, poor quality drainage from the yard will move directly to the lake.



Least Advisable

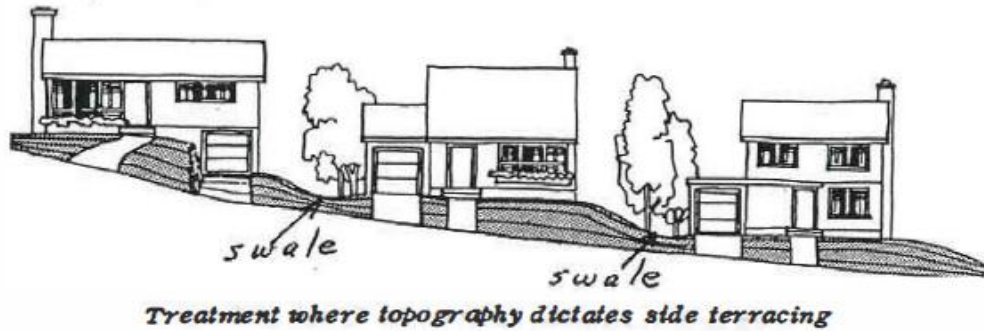


Most Advisable

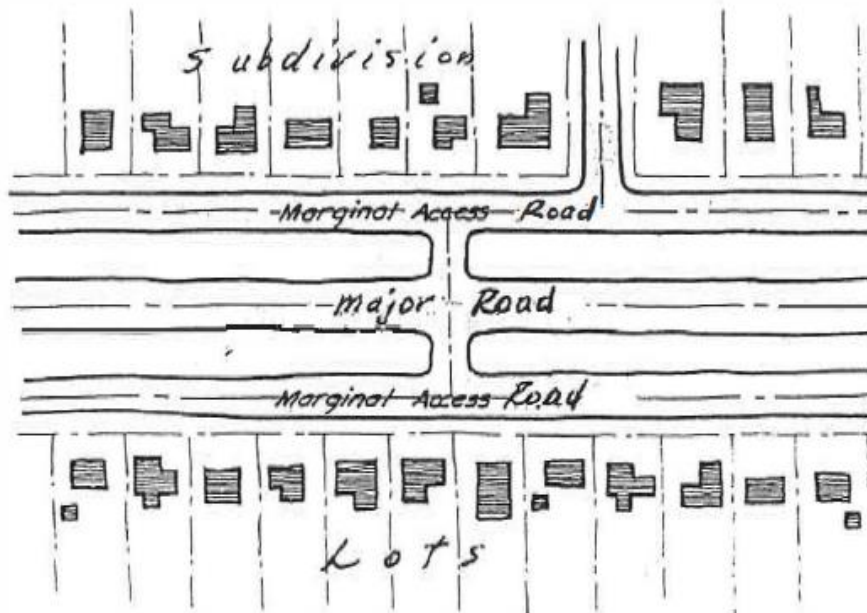


The situation shown in the third drawing is somewhat better because only about half the yard drainage is able to move to the lake. The best arrangement, however, is clearly the last one in which most of the yard drainage is restricted to the landward side of the rise. With this site design, property owners can limit the influence of land use activities on the lake, particularly if much of the natural vegetation is left on the lakeward slope. Finally, it is important to add that on all sites septic systems should be set back at least 100 feet from the shore.

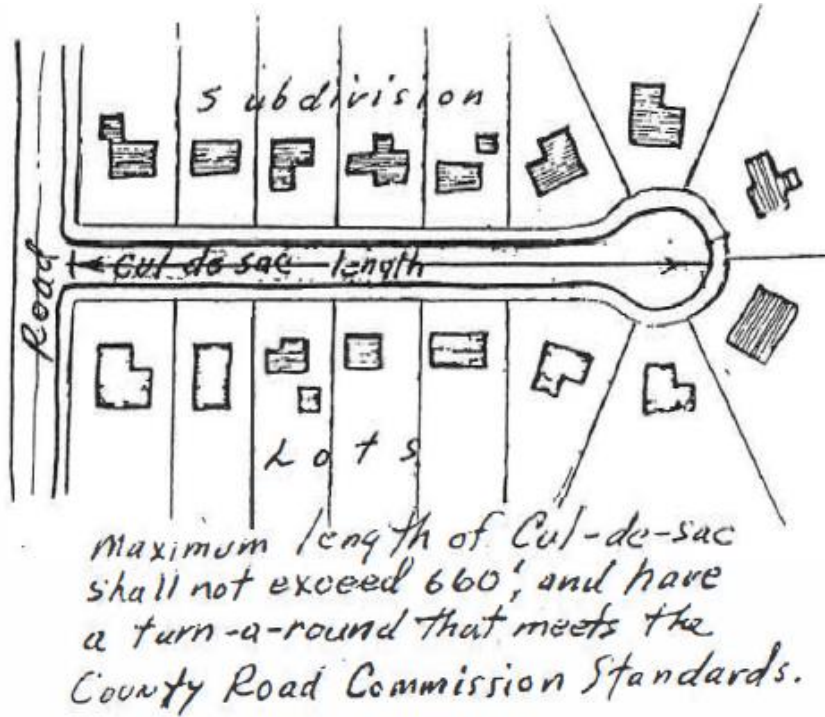
Terracing



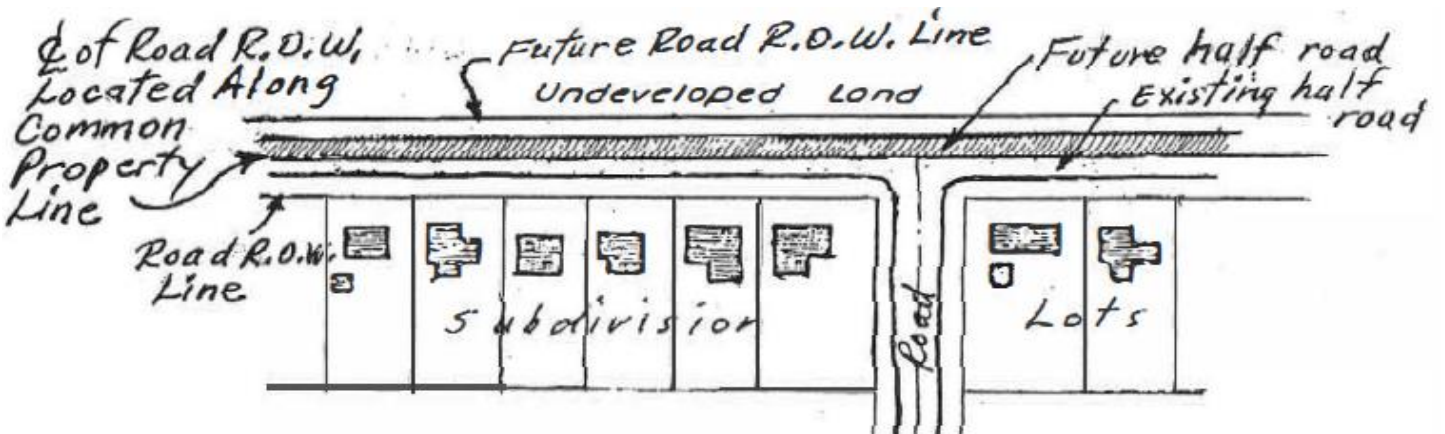
- F. Alleys: Alleys shall not be permitted in areas of detached single or two-family residences. Alleys may be provided in multiple dwellings and shall be provided in commercial subdivisions unless other provisions are made for service access, off-road loading and unloading and off-road parking. Dead-end alleys shall be prohibited.
- G. Marginal Access Roads: Where a subdivision is designed to front upon or includes a major road, the Township shall require the following:
 - 1. Marginal access roads shall be generally parallel to and located on each side of a major road right-of-way.
 - 2. Such other treatment as it deems necessary for the adequate protection of abutting residential properties and to afford separation of through and local traffic.



- H. Cul-de-sac Roads: Cul-de-sacs or Dead End Roads shall not be more than 660 feet in length. Special consideration shall be given to longer cul-de-sacs under certain topographic conditions or other unusual natural or development conditions. Cul-de-sacs shall terminate with an adequate turn-around as prescribed by the Van Buren County Road Commission.



- I. Half Roads: Half Roads shall generally be prohibited except where unusual circumstances make it essential to the reasonable development of a parcel of land and adjacent parcels in conformance with these regulations and where satisfactory assurance for dedication of the remaining part of the road is provided. Whenever a parcel of land to be subdivided borders on an existing half or partial road, the other part of the road shall be dedicated within such parcels of land, according to the requirements of the Van Buren County Road Commission.



J. Private Roads: Private road shall be prohibited in platted subdivisions.

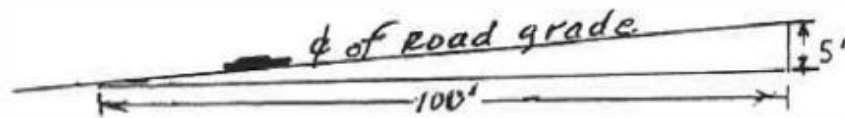
4.13 SPECIFICATIONS

A. Road Right-of-Way Widths:

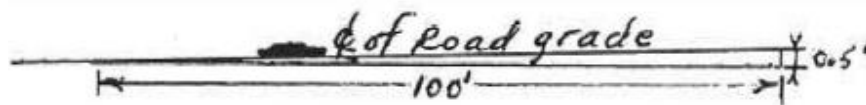
1. Road right-of-way and roadway widths shall conform to the adopted Major Road Plan and the requirements of the Van Buren County Road Commission and the Michigan Department of Transportation.

B. Road Gradients:

1. Maximum Grades: Road grades shall not exceed five (5) percent on roads.

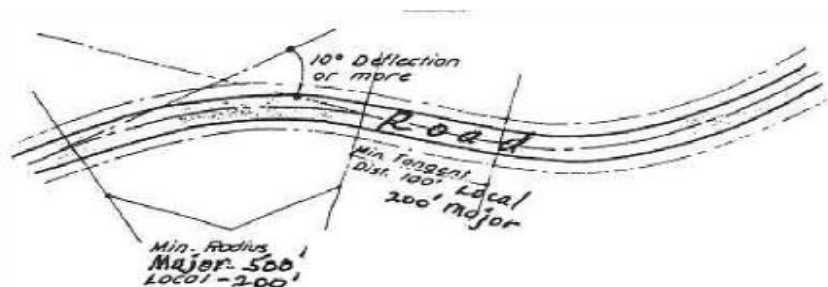


2. Minimum Grades: No street grade shall be less than one-half (0.5) percent.

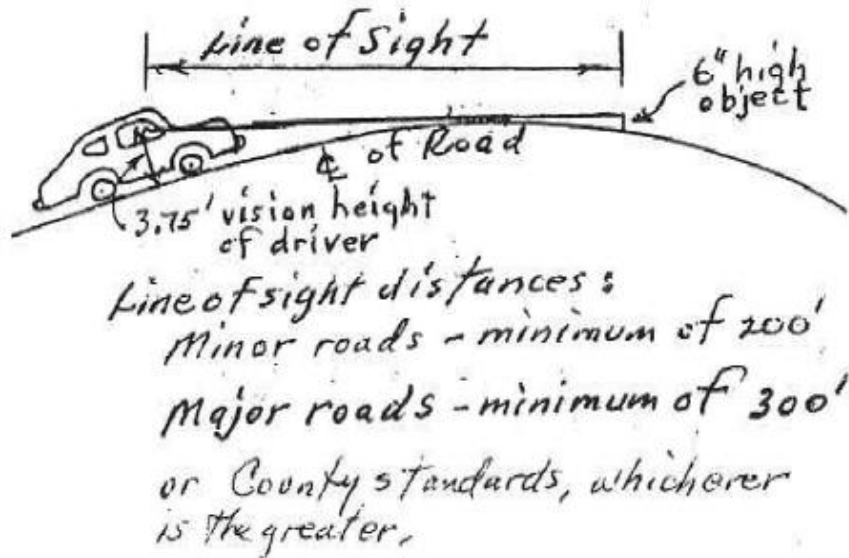


C. Road Alignment:

1. Horizontal Road Alignment: When road lines deflect from each other by more than ten (10) degrees in alignment, the center lines shall be connected by a curve with a minimum radius of five hundred (500) feet for major roads, and two hundred (200) feet for all other roads. Between reverse curves, on minor roads, there shall be a minimum tangent distance of one hundred (100) feet, and on major roads two hundred (200) feet.



2. Vertical Alignment: Minimum sight distances shall be two hundred (200) feet for minor roads and three hundred (300) feet for major roads.



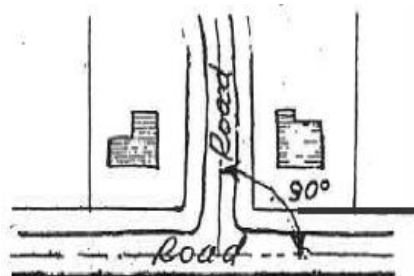
4.14 ROAD NAMES

1. Road names shall not duplicate any existing name in Van Buren County, except where a new road is a continuation of an existing named road.
2. Road names which may be spelled differently but sound the same shall be avoided.
3. Duplication of road names shall be avoided by checking new road names with the Van Buren County Road Commission master road name listing.

Section 4.2 INTERSECTIONS

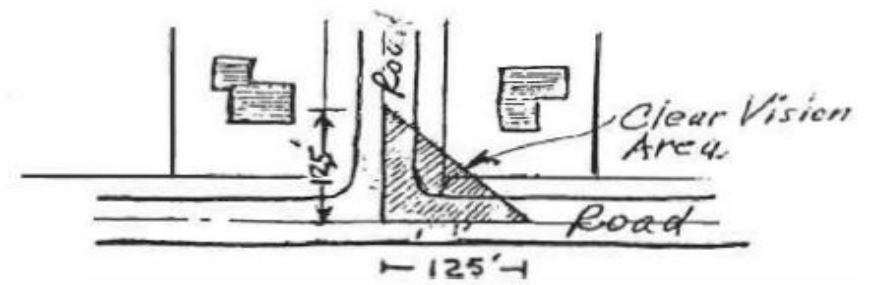
4.21 ANGLE OF INTERSECTION

Roads shall generally intersect at ninety (90) degrees, but in no case less than eighty (80) degrees.



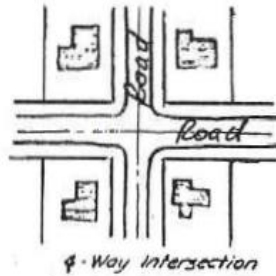
4.22 CLEAR VISION TRIANGLES

Minimum clear vision distance at all minor road intersections shall permit vehicles to be visible to the driver of other vehicles on all roads leading to an intersection from a distance of at least one hundred twenty" five (125) feet from the center of the intersection.



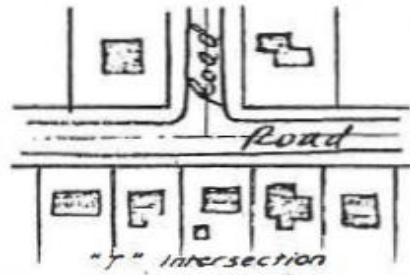
4.23 NUMBER OF INTERSECTING ROADS

No more than two (2) roads shall cross at any one intersection.



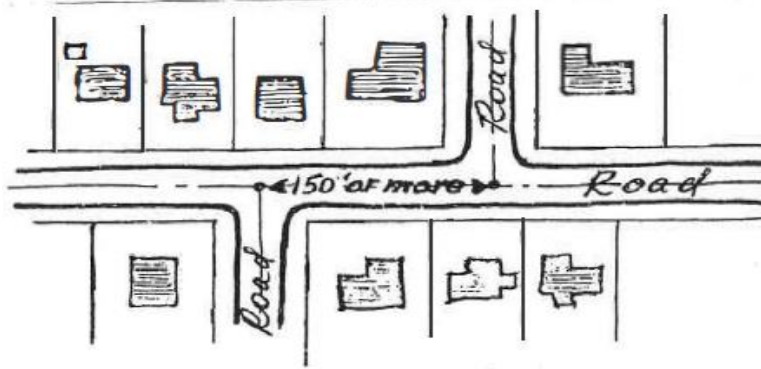
4.24 'T' INTERSECTIONS

Except on major roads, "T" type intersections shall be used whenever possible.



4.25 ROAD CENTERLINE OFFSETS

Offsets at intersections shall be avoided. Where such offsets are unavoidable, road centerlines shall be offset by a distance of at least one hundred fifty (150) feet.



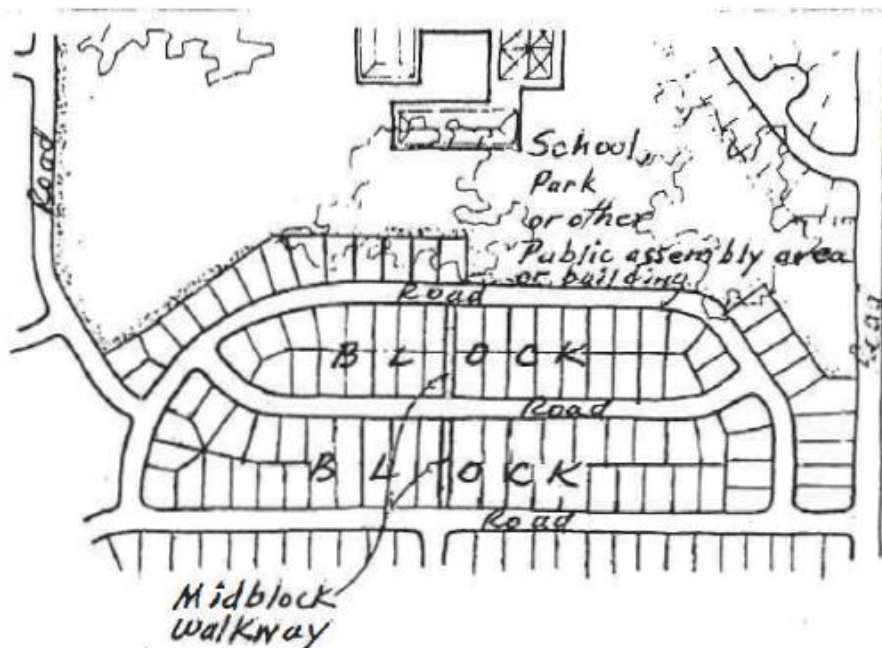
4.26 VERTICAL ALIGNMENT OF ROAD INTERSECTION

A nearly flat grade with appropriate drainage slopes shall be required at road intersections. This flat section shall be carried back at least fifty (50) feet each way from the intersection. An allowance of two (2) percent maximum intersection grade in rolling terrain (up to 5% grade) and four (4) percent in hilly terrain (more than 5% grade) may be permitted.

Section 4.3 PEDESTRIAN WAYS

4.31 PUBLIC WALKWAYS

- A. Location of public walkways designed to separate automotive traffic from pedestrians and bike traffic may be required by the Planning Commission to obtain satisfactory traffic circulation and safety within a subdivision.
- B. Right-of-way widths of public walkways shall be at least twelve (12) feet and shall be in the nature of an easement for this purpose.
- C. The paved surface of the walkways shall be five (5) feet in width and shall be paved in concrete.



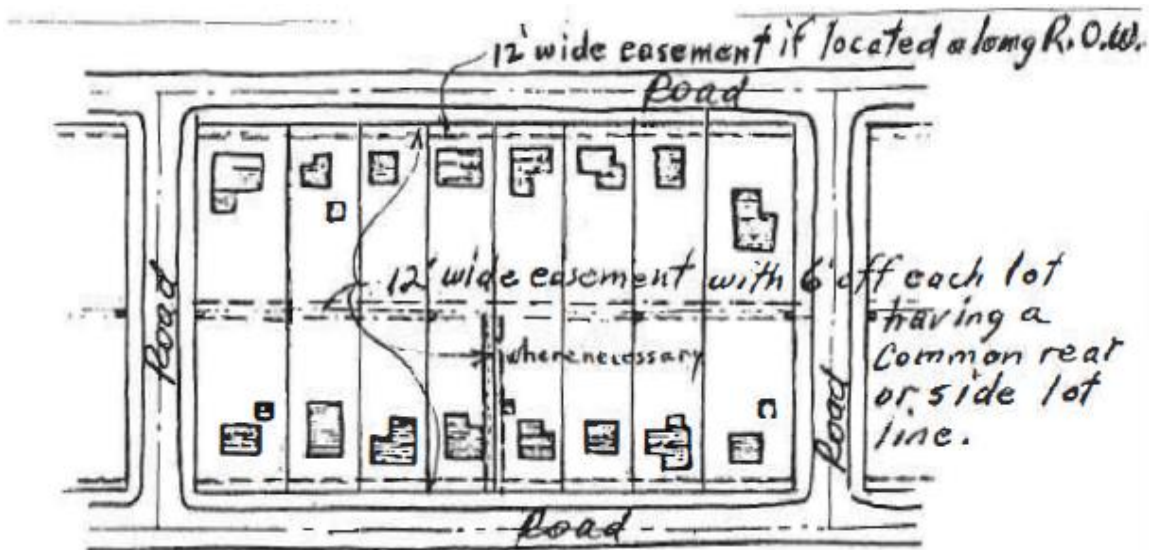
4.32 SIDEWALKS

Sidewalks shall be provided on at least one side of each road right-of-way located within or adjacent to a subdivision. In those instances where no good purpose would be served, the Township Board may waive this requirement. All sidewalks shall be made of concrete five (5) feet wide, four (4) inches thick, on a bed of six (6) inches deep and located one (1) foot from the property line upon which they front.

Section 4.4 EASEMENTS:

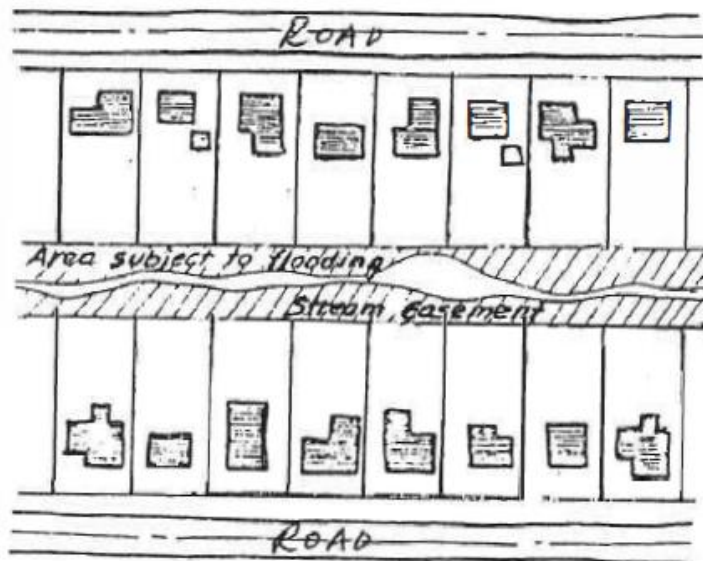
4.41 LOCATION

Easements shall be provided within the road right-of-way, adjacent to it or along rear lot lines for utilities and also alongside lot lines where necessary. The total width shall not be less than six (6) feet along each lot, or a total of twelve (12) feet for adjoining lots and adjacent to a road right-of-way.



4.42 DRAINAGEWAY

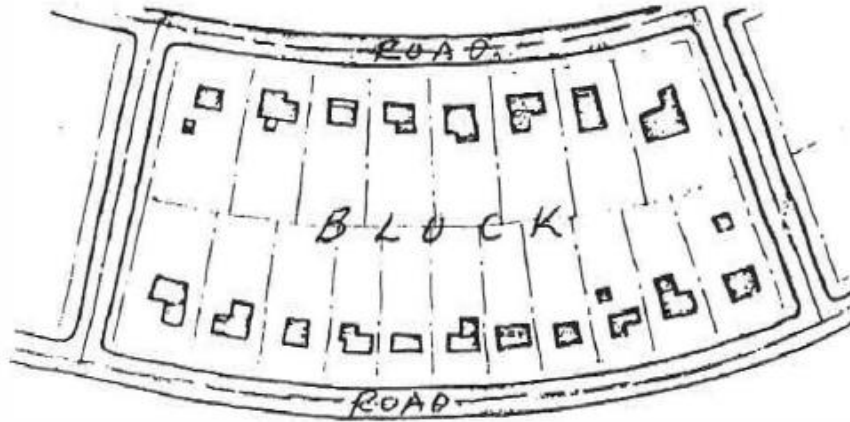
The subdivider shall provide drainageway easements as required by the Van Buren County Drain Commissioner.



Section 4.5 BLOCKS

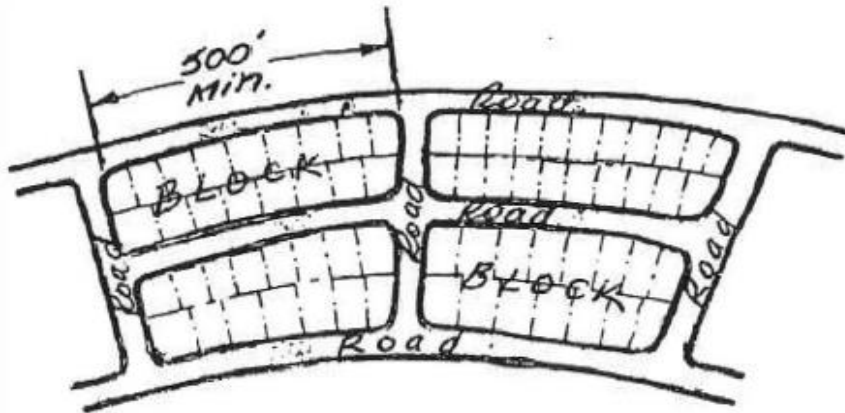
4.51 ARRANGEMENTS

A block shall be so designed as to provide two (2) tiers of lots, except where lots back onto a major road, natural feature, or subdivision boundary,



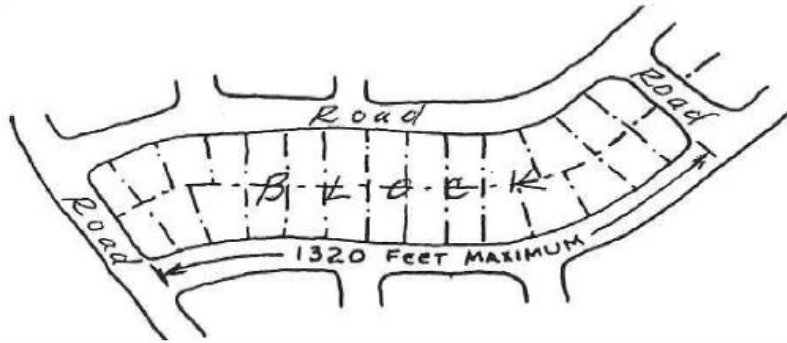
4.52 MINIMUM LENGTH

Blocks shall not be less than five hundred (500) feet long.



4.53 MAXIMUM LENGTH

The maximum length allowed for residential blocks shall be one thousand three hundred twenty (1,320) feet long.



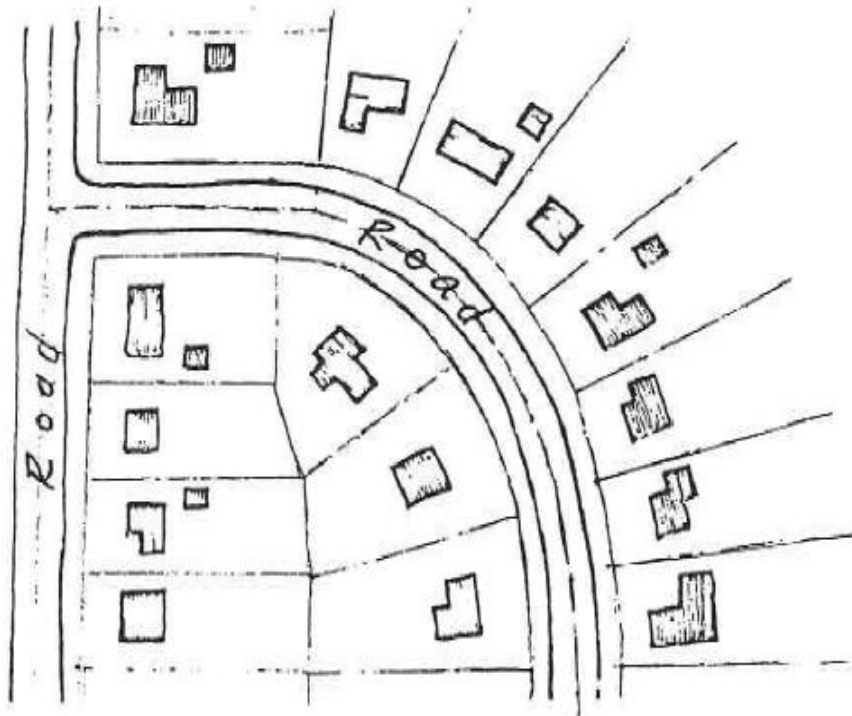
Section 4.6 LOTS

4.61 CONFORM TO ZONING

The lot width, depth, and area shall not be less than the zoning district requirements in which the subdivision is located, except where lots are provided for some other specific purpose.

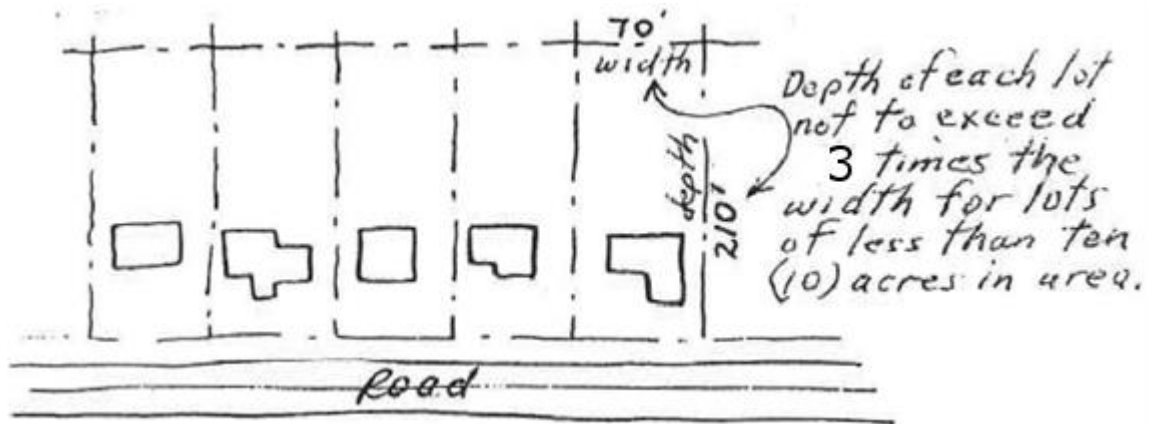
4.62 LOT LINES

Side lot lines shall be essentially at right angles to straight roads and radial to curved roads wherever possible.



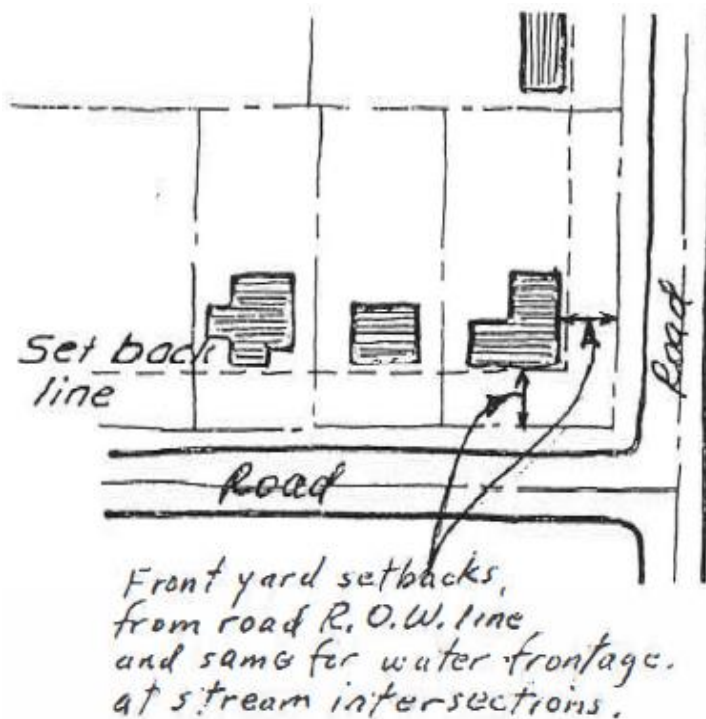
4.63 WIDTH RELATED TO LENGTH

Narrow deep lots shall be avoided. The depth of a lot generally shall not exceed three (3) times the width as measured at the required minimum building setback line for lots of less than ten (10) acres in area.



4.64 CORNER LOTS

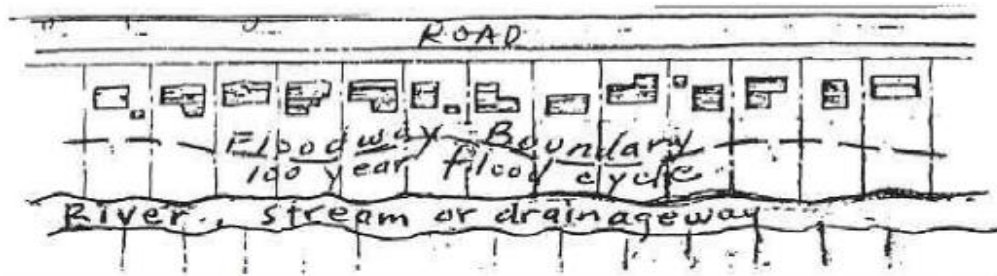
Corner lots shall have extra width in order to meet the required building setback from both roads.



4.65 UNINHABITABLE AREAS

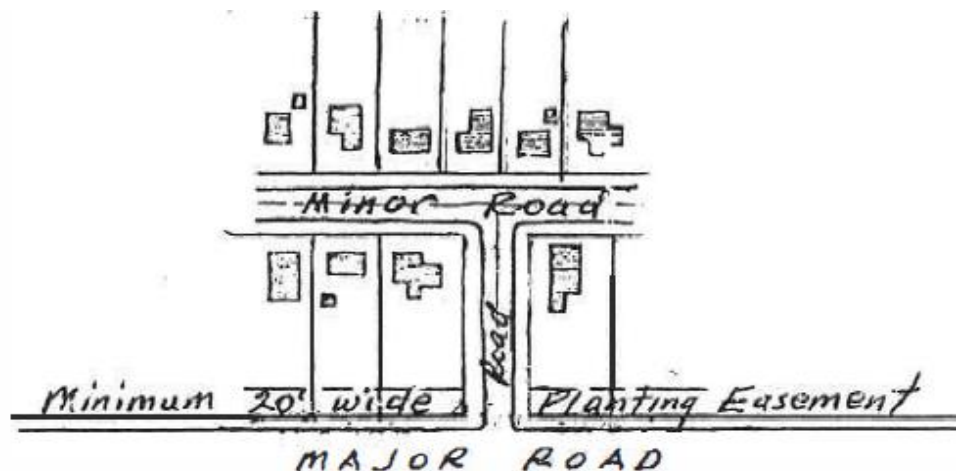
Lands which are regulated wetlands or subject to the 100 year flood cycle or otherwise deemed by the Planning Commission to be uninhabitable may be platted but not used for residential building site purposes, or for uses that may in the judgment of the Planning Commission increase the danger to health, life, or property or increase the flood hazard.

Such land within a subdivision may be set aside for other uses, such as drainage easements, parks or other open space or may be added to lots which otherwise meet or exceed the minimum lot size or lot depth and do not include wetlands or other areas which are subject to the 100 year flood cycle.



4.66 BACK-UP LOTS

Subdivision lots shall back up to such features as highways, major roads, commercial or industrial properties, and other major nonresidential land uses, except where there is a marginal access road. Such back-up lots shall contain a planting strip easement along the rear property line at least twenty' (20) feet in width, and no driveway or other vehicular access across such easements shall be permitted.



Planting easement required when a residential subdivision backs up to a major road, major public facility, commercial and industrial land uses, and other major nonresidential land uses.

4.67 LOT FRONTAGE

All subdivision lots shall front upon a publicly dedicated road.

4.68 FUTURE ARRANGEMENTS

Where parcels of land are subdivided into unusually large lots, the parcels shall be divided, where feasible, so as to allow for resubdividing into smaller parcels in a logical fashion. Lot arrangements shall allow for the ultimate extension of adjacent roads through the middle of wide blocks having lots deep enough for future lots to have frontage upon them. Whenever such future resubdividing or lot splitting is planned such resubdividing shall be approved by the Planning Commission through the regular land subdivision process provided in these regulations.

4.69 LOT DIVISION

The dividing or splitting of a lot in a recorded plat is prohibited, unless approved following application to the Township Board. The application shall be filed with the Township Clerk and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into more than four (4) parts and the resulting lots shall be not less in area than permitted by the Township Zoning Ordinance. No building permit shall be issued, or any building construction commenced, until the division has been approved by the Township Board and the suitability of the land for building sites has been approved by the County Health Department. The division of a lot resulting in a smaller area than prescribed herein may be permitted but only for the purpose of adding to existing lots.

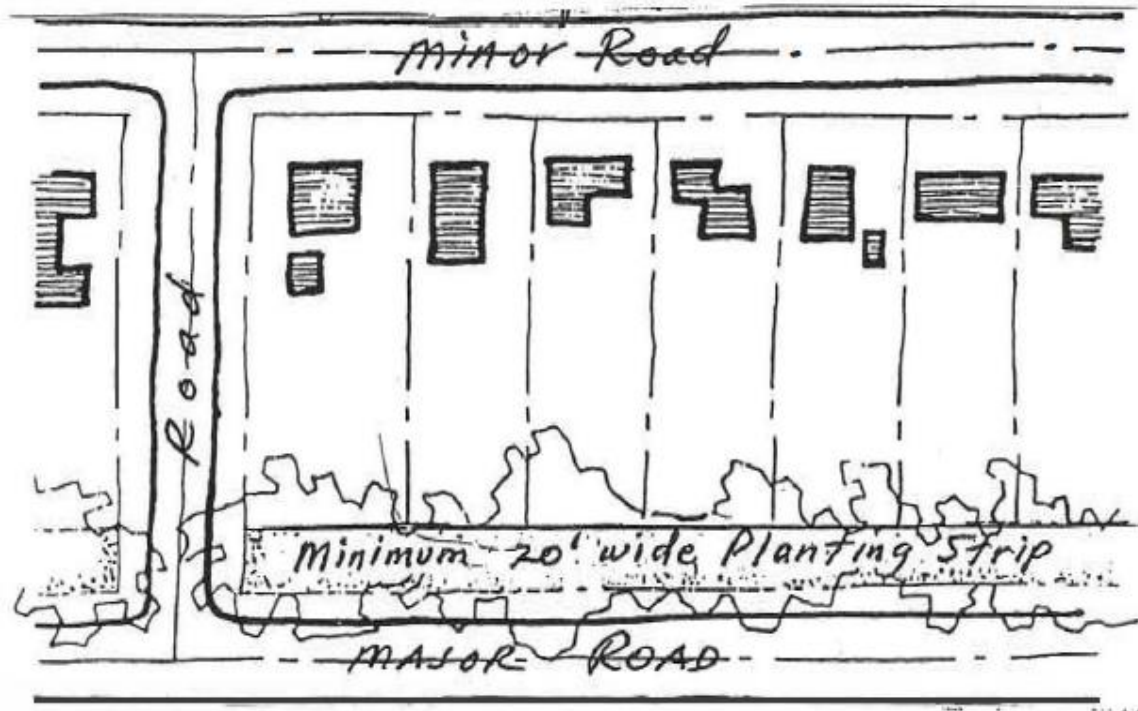
4.691 DIVISION OF UNPLATTED PARCEL

The division of an unplatted parcel of land into two (2), three (3) or four (4) lots which involves the dedication of a new road shall require the approval of the Township Board prior to developing or using such land subdivision. All such applications shall be made in writing and shall be accompanied by a drawing of the proposed division and engineering plans and specifications for the construction of the road, which shall meet the construction standards of the Van Buren County Road Commission. No zoning, building or occupancy permit shall be issued in such cases until the Township Board has approved the division of the unplatted parcel.

Section 4.7 PLANTING STRIPS

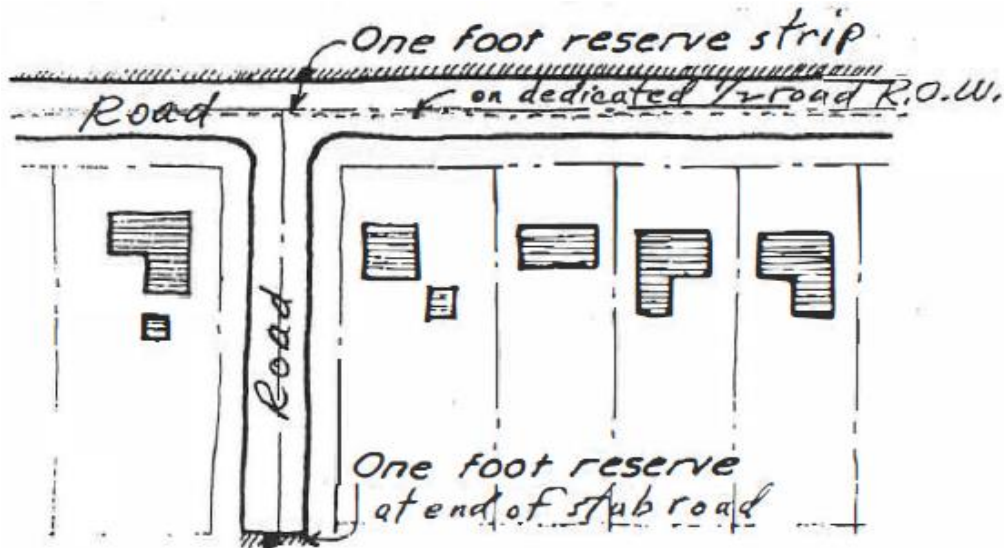
4.71 PLANTING STRIPS

Planting strips may be required next to incompatible features such as highways, commercial, industrial or other nonresidential land uses in order to screen the view of them from residential properties. Such screens shall be a minimum of twenty (20) feet wide, and shall not be a part of the road right-of-way or utility easement, nor shall there be any vehicular access provided through the planting strip easement.



4.72 RESERVE STRIPS

- A. Reserve Strips - Private: Privately-held reserve strips controlling access to roads shall be prohibited.
- B. Reserve Strip - Public: A one-foot reserve may be required by the Township at the end of "stub" of "dead-end" roads which terminate at subdivision boundaries and along half-roads. These reserves shall be deeded in fee simple to the Township for future road purposes.



Section 4.8 PUBLIC SITES AND OPEN SPACES

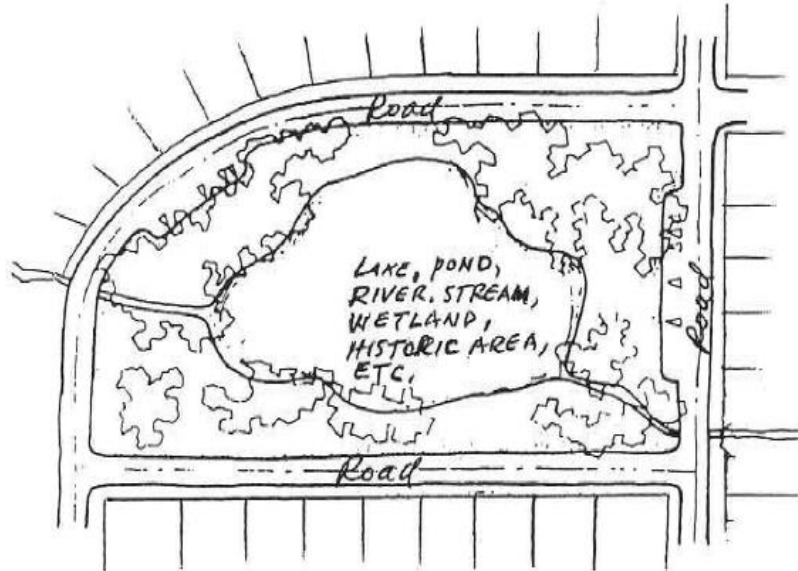
4.81 PUBLIC USES

Where a proposed park, playground, school site, or other public area use shown on the Master Plan for Land Use is located in whole or in part within a subdivision, a suitable area for this purpose may be dedicated to the public or reserved for public purchase by the land subdivider.

If within two (2) years of recording the plat with the County Register of Deeds, the purchase of such dedicated or reserved land is not agreed on, the dedication or reservation may be canceled or shall automatically cease to exist.

4.82 NATURAL FEATURES

Existing natural features which add value to land subdivision and enhance the attractiveness of the subdivision and the area generally, such as trees, watercourses, historic spots, and similar irreplaceable assets, shall be preserved, insofar as possible, in the design of the subdivision.



Section 4.9 LARGE SCALE DEVELOPMENTS

4.91 MODIFICATION

This Ordinance may be modified in accordance with Article VI in the case of a subdivision large enough to constitute a complete community or neighborhood, consistent with the Master Plan for Land Use and Zoning Ordinances and which provides and dedicates adequate public open space and improvements of the circulation, recreation, education, light, air, and service needs of the tract when fully developed and populated.

4.92 NEIGHBORHOOD OR COMMUNITY CHARACTERISTICS

A community or neighborhood under this provision shall generally be consistent with the Master Plan for Land Use and Zoning Ordinance, contain or be bounded by major roads or natural physical barriers, and shall contain reserved areas of sufficient size to serve its population, with schools, playgrounds, parks and other public facilities and commercial goods and service outlets.

4.93 COMMERCIAL OR INDUSTRIAL SUBDIVISIONS

These subdivision regulations design standards may be modified in accordance with Article VI in the case of subdivisions specifically for commercial or industrial development, including shopping districts, wholesaling areas, and planned industrial districts, providing such subdivisions can meet the requirements of the Township Zoning Ordinance.

ARTICLE V - SUBDIVISION IMPROVEMENTS

Section 5.1 PURPOSE

It is the purpose of this section to establish and define the improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning design, construction, and financing of public facilities, and to further establish procedures for assuring compliance with these requirements.

Section 5.2 RESPONSIBILITY FOR PLANS

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered professional engineer experienced in land subdividing a complete set of construction plans and specifications, including profiles, cross-sections, specifications, and other supporting data, for the required roads, utilities, and other facilities. Such construction plans shall be based on preliminary plans which have been approved as an integral part of the preliminary plat, and shall be prepared as a part of the final plat. Construction plans are subject to approval by each of the responsible public agencies, and all construction plans shall be prepared in accordance with their requirements, standards or specifications.

Section 5.3 PROCEDURE

5.31 SUBMITTAL

When construction has been completed one (1) complete copy of as-built engineering plans of each required improvement shall be filed with the Township Clerk coincident with the filing of the final plat. Other requirements and procedures in the submittal of final plats shall be as provided in Section 3.3.

Section 5.4 REQUIRED PUBLIC IMPROVEMENTS

Every subdivider shall be required to install the following improvements in accordance with the conditions and specifications as follows:

5.41 MONUMENTS

- A. Monuments shall be set in accordance with the State Subdivision Control Act of 1967, Act No. 288 of the Public Acts of 1967.

5.42 ROADS AND ALLEYS

All roads and alleys shall be constructed in accordance with the standards and specifications adopted by the Van Buren County Road Commission.

5.43 CURBS AND GUTTERS

Where required curbs and gutters shall be constructed in accordance with the standards and specifications adopted by the Van Buren County Road Commission.

5.44 INSTALLATION OF PUBLIC UTILITIES

Public utilities and driveways shall be located in accordance with the requirements of the Van Buren County Road Commission. The underground work for utilities shall be stubbed to the property line of each lot. The subdivider shall make arrangements for all distribution lines for telephone, electric and cable television service to be placed underground entirely throughout a subdivided area. Such conduits or cables shall be placed within easements provided for such services by the subdivider or within dedicated public ways. Those telephone and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities and surface construction. The proposed location of all underground wiring shall be submitted to the appropriate public utility company for approval. Installation shall not proceed until such approval has been granted. All telephone and electrical utilities shall be constructed in accordance with the requirements and standards for construction approved by the Michigan Public Service Commission or other agency or organization. All drainage and underground utility installations which traverse privately owned property shall be located in easements granted by the subdivider.

5.45 DRIVEWAYS

All driveway aprons connecting to roads shall be hard surfaced as specified by the Van Buren County Road Commission or the Michigan Department of Transportation.

5.46 STORM DRAINAGE

An adequate storm drainage system, including open drains, storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be required in all subdivisions. The requirements for each particular subdivision shall be established by the Van Buren County Drain Commissioner.

Construction shall meet the requirements, specifications and procedures established by the Van Buren County Drain Commissioner. All proposed storm drainage system construction plans for proposed plats shall be approved by the Van Buren County Drain Commissioner.

5.47 WATER SUPPLY SYSTEM

When a proposed subdivision is to be serviced by a water supply system, fire hydrants and other required water system appurtenances shall be provided by the subdivider.

The subdivider may be required to install a water supply system for the common use of the lots within the subdivision in accordance with the requirements of Act 98, P.A. 1913, as amended.

Individual wells may be permitted in accordance with the requirements of the Van Buren County Health Department.

5.48 SANITARY SEWER SYSTEM

When a proposed subdivision is to be serviced by a sanitary sewer collection and treatment system, sanitary sewers and other required appurtenances thereto shall be provided by the subdivider. Sewer systems shall comply with the requirements of Act 98, P.A. 1912, as amended.

A sewer system for the common use of the lot owners may be required to be provided by the subdivider, if feasible in the judgment of the Planning Commission with the advice of a Township Engineer Consultant and County Health Department. Such a system shall comply with the requirements of Act 98, P.A. 1913, as amended. Where it is determined in the judgment of the Planning Commission, with the advice of a Township Engineer Consultant and the Van Buren County Health Department, that a sewer system is not feasible in a subdivision, then approved septic tanks

and disposal fields may be approved which shall comply with the requirements of the Van Buren County Health Department.

5.49 ROAD NAME SIGNS

Road name signs shall be installed in the appropriate locations at each road intersection in accordance with the requirements of the Van Buren County Road Commission.

5.491 ROAD LIGHT REQUIREMENTS

Where road lighting is to be installed, road lights shall be required to be installed at intervals of not less than one (1) road light every two hundred fifty (250) feet of roadway length.

Section 5.5 OPTIONAL PUBLIC IMPROVEMENTS

5.51 RECREATIONAL

If park or recreational areas are to be provided in the subdivision, one-tenth (0.1) of an acre per lot shall be dedicated to either the subdivision lot owners or to the Township of Almena for purposes of development of recreational areas. If the park or recreation area is to be owned and operated by the lot owners in a subdivision, the subdivider shall provide the Township Planning Commission with a copy of the dedication of park, recreation and other open space areas, deed restrictions and easements in order for the Planning Commission is assured that the park and recreational areas will be financially supported and maintained by the lot owners.

5.52 GREENBELTS

It is desirable for the protection of residential properties to have greenbelts or landscaped screen plantings located between a residential development and adjacent major roads rights-of-way. Where a subdivider desires to protect his development in this respect, a proposed subdivision plat shall show the location of said greenbelts.

5.53 STREET TREES

Street trees of a variety and size in accordance with the standards adopted by the Township may be planted between the street curb and sidewalk. The location of street trees shall be approved by the Van Buren County Road Commission.

5.54 WATER SUPPLY

When a proposed subdivision is located within, adjacent to or reasonably near the service area of a public water supply system, water mains, fire hydrants; required water system appurtenances shall be constructed in such a manner as to adequately serve all lots shown on the subdivision plat, both for domestic use and fire protection. In the event of the nonexistence or nonavailability of a public water supply system, a subdivision water supply system equal to the above shall be installed by the subdivider unless proof is available making such a system not feasible as determined by the appropriate health authorities.

Section 5.6 GUARANTEE OF COMPLETION OF IMPROVEMENTS REQUIRED BY THE TOWNSHIP

5.61 FINANCIAL GUARANTEE ARRANGEMENTS, EXCEPTIONS

In lieu of the actual installation of required public improvements, the Township Board, on recommendation of the Planning Commission, may permit the subdivider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of the Van Buren County Road Commission, Van Buren County Drain Commissioner or any other agency responsible for the administration, operation and maintenance of the applicable public improvements. The Planning Commission may recommend and the Township Board may waive financial guarantees of performance under this Ordinance for sidewalks, street lights, or street trees. In case these improvements are specified, completion shall be required prior to the issuance of occupancy permits.

A. Performance of Surety Bond:

1. Accrual: The bond shall accrue to the Township, covering construction, operation and maintenance of the specific public improvement.
2. Amount: The bond shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the Township Board.
3. Term Length: The term length in which the bond is force shall be for a period to be specified by the Township Board for the specific public improvement.
4. Bonding or Surety Company: The bond shall be with a surety company authorized to do business in the State of Michigan, acceptable to the Township Board.
5. The escrow agreement shall be drawn and furnished by the Township Board.

B. Cash Deposit, Certified Check, Negotiable Bond, or Irrevocable Bank Letter of Credit:

1. Treasurer, Escrow Agent or Trust Company: A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable by the Township Board, shall accrue to the Township. These deposits shall be made with the Township Treasurer, or deposited with a responsible escrow agent, or trust company, subject to the approval of the Township Board.
2. Dollar Value: The dollar value of the cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the Township Board.
3. Escrow Time: The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period to be specified by the Township Board.
4. Progressive Payment: In the case of cash deposits or certified checks, an agreement between the Township and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

5.62 CONDITION OF TOWNSHIP APPROVAL OF FINAL PLAT - FINANCIAL GUARANTEES:

With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:

1. The construction of improvements required by this Ordinance shall have been completed by the subdivider and approved by the Township Board.
2. Surety acceptable to the Township shall have been filed in the form of a cash deposit, certified check, negotiable bond, irrevocable bank letter of credit or surety bond.

5.63 SPECIAL AGREEMENTS

A special agreement shall be entered into between the subdivider and the Township Board where street trees and street lights have been required by the Township Board.

5.64 INSPECTION OF PUBLIC IMPROVEMENTS UNDER CONSTRUCTION

Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and the Township Board shall be made to provide for checking or inspecting the construction and its conformity to the submitted plans.

5.65 PENALTY IN CASE OF FAILURE TO COMPLETE THE CONSTRUCTION OF A PUBLIC IMPROVEMENT

In the event the subdivider shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. In order to accomplish this, the Township Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the Township Board and the subdivider.

ARTICLE VI - VARIANCES

Section 6.1 GENERAL

The Township Planning Commission may recommend to the Township Board a variance from the provisions of this Ordinance on a finding that undue hardship may result from strict compliance with specific provisions or requirements of the Ordinance or that application of such provision or requirement is impracticable. The Planning Commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the Planning Commission finds after a public hearing:

- A. That there are such special circumstances or conditions affecting said property that the strict application of the provisions of this Ordinance would clearly be impracticable or unreasonable and variances from these provisions are needed. In such cases the subdivider shall first state his reasons in writing as to the specific provision or requirement in need of a variance, and submit them to the Planning Commission for its consideration and action.
- B. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- C. That such variance will not violate the provisions of the "Subdivision Control Act of 1967," being Act 288 of the Public Acts of 1967; MCL 560.101-560.293.
- D. The Planning Commission shall include its findings and the specific reasons for granting each variance in its report of recommendations to the Township Board and shall also record its reasons for granting each variance in its minutes.
- E. That such variance will not have the effect of nullifying the interest and purpose of this Ordinance and the Master Plan for Land Use adopted by the Planning Commission of Almena Township.

Section 6.2 TOPOGRAPHICAL - PHYSICAL LIMITATION VARIANCE

In the case of a particular proposed subdivision, where it can be shown that strict compliance with the requirements of this Ordinance would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or other such conditions which are not self-inflicted, or that these conditions would result in violating the achievement of the objectives of this Ordinance, the Planning Commission may recommend to the Township Board that a variance from these requirements be granted.

Section 6.3 PLANNED UNIT DEVELOPMENT VARIANCE

A developer may request a variance from specified portions of this Ordinance in the case of a planned unit development. If in the judgment of the Planning Commission such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, it shall make findings, as required herein below. The Planning Commission shall take into account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The Planning Commission shall report to the Township Board whether:

- A. The proposed project will constitute a desirable and stable additional development in the Township.

- B. The proposed project will be in harmony with adjacent areas in terms of land uses, level of activity, circulation of traffic, water supply, wastewater disposal, storm water drainage and visibility to surrounding developments.

ARTICLE VII - ENFORCEMENT AND PENALTIES FOR FAILURE TO COMPLY WITH THIS ORDINANCE

Section 7.1 ENFORCEMENT

No subdivision plat or lot split required by this Ordinance or the Subdivision Control Act shall be admitted to the public land records of the County or received or recorded by the Van Buren County Register of Deeds, until such subdivision plat or lot split has received final approval by the Township Board. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the improvements required by this Ordinance unless such improvements shall have already been accepted, opened or otherwise received the status of a completed improvement prior to the adoption of this Ordinance provided such improvement corresponds in its location and to the requirements of this Ordinance.

Section 7.2 PENALTIES

Penalties for failure to comply with the provisions of this Ordinance shall be as follows:

Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor.

Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined in accordance with the law governing misdemeanors. Each day such violation continues shall be considered a separate offense. The land owner, tenant, subdivider or builder who assists in or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Township Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this Ordinance or of the Subdivision Control Act.

ARTICLE VIII - AMENDMENTS

Section 8.1 PROCEDURES

The Township Board may, from time to time, amend, supplement, or repeal the regulations and provisions of this Ordinance. A proposed amendment, supplement, or repeal may be originated by the Township Board, Township Planning Commission, or by petition of property owners. All proposals not originating with the Planning Commission shall be referred to it for a report thereon before any action is taken on the proposal by the Township Board.

ARTICLE IX - MISCELLANEOUS PROVISIONS

Section 9.1 VALIDITY

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

Section 9.2 EFFECTIVE DATE

This Ordinance shall take effect in Almena Township after public hearing, recommendation of the Planning Commission, adoption by the Township Board, publication within thirty (30) days after adoption and certification by the Township Clerk as to the date of adoption and date of publication. The effective date shall be thirty (30) days after date of publication.

Initial Publication March 10, 1998

Date of Public Hearing March 31, 1997

Adoption of Planning Commission March 31, 1997

Adoption of Township Board March 8, 1998

Final Publication Date March 22, 1998

Effective Date April 24, 1998

By referendum - Nov. 3, 1998

Josephine Burns, Clerk

— Amended - July 9, 2014

Date of Public Hearing – May 12, 2014

Approval of Planning Commission – May 12, 2014

Approval of Township Board – July 9, 2014

— Final Publication Date – March 27, 1998

Effective Date – April 24, 1998

By Referendum – November 3, 1998