

**ZONING ORDINANCE**  
**HAMILTON TOWNSHIP**  
**VAN BUREN COUNTY, MICHIGAN**

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**with assistance from:**

**McKenna Associates, Inc.**  
**Kalamazoo, Michigan**

**ACKNOWLEDGEMENTS**

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**TABLE OF CONTENTS**

**CHAPTER 1**

Scope, Title, Ordinance Construction..... 1-1

**CHAPTER 2**

Zoning Districts and Map..... 2-1

**CHAPTER 3**

Zoning Definitions..... 3-1

**CHAPTER 4**

AG Agricultural District..... 4-1

**CHAPTER 5**

R-1 Low Density (Rural) Residential District..... 5-1

**CHAPTER 6**

R-2 Medium Density Residential District..... 6-1

**CHAPTER 7**

R-3 Manufactured Housing and Mobile Home Park District..... 7-1

**CHAPTER 8**

R-4 Lake Residential District..... 8-1

**CHAPTER 9**

C-1 Resort Mixed Use District..... 9-1

**CHAPTER 10**

C-2 General Commercial District..... 10-1

**CHAPTER 11**

I-1 Industrial District.....11-1

**CHAPTER 12**

M Manufacturing District..... 12-1

**CHAPTER 13**

Planned Unit Development..... 13-1

**CHAPTER 14**

Open Space Preservation Overlay..... 14-1

**CHAPTER 15**

Signs..... 15-1

**CHAPTER 16**

General Provisions and Exceptions..... 16-1

- Section 16.01 Intent
- Section 16.02 General Exceptions
- Section 16.03 Easements
- Section 16.04 Grades Elevation Differentials and Retaining Walls
- Section 16.05 Obstructions to Vision on Corner Lots
- Section 16.06 Fence, Wall and Privacy Screen Regulations
- Section 16.07 Off-Street Parking Requirements
- Section 16.08 Storage of Obnoxious Matter in Open Containers Prohibited
- Section 16.09 Soil Excavation or Filling
- Section 16.10 Lot Accessibility
- Section 16.11 Keeping of Farm Animals and Other Animals



- Section 16.12 Swimming Pool Regulations
- Section 16.13 Home Occupation
- Section 16.14 Temporary and Portable Buildings, Uses, and Structures
- Section 16.15 Building Permits Issued Prior to Effective Date
- Section 16.16 Restoration of Unsafe Buildings
- Section 16.17 Moving of Buildings
- Section 16.18 Exceptions to Area and Width Requirements
- Section 16.19 Number of Buildings on a Lot
- Section 16.20 Illegal Dwellings
- Section 16.21 Other Projections into Yards
- Section 16.22 Access Through Yards
- Section 16.23 Accessory Buildings and Structures
- Section 16.24 Adult Regulated Uses and Sexually Oriented Businesses
- Section 16.25 Automobile Filling Stations and Service Stations
- Section 16.26 Condominium Development Standards
- Section 16.27 Wireless Communications Facility Requirements
- Section 16.28 Mining Sand and Gravel
- Section 16.29 Riparian Lot Use Regulations
- Section 16.30 Off-Road Vehicle Track or Park

**CHAPTER 17**

- Parking and Loading Standards..... 17-1

**CHAPTER 18**

- Site Plan Review and Approval Procedures..... 18-1

**CHAPTER 19**

- Special Exception Use Permit Review Procedures..... 19-1

**CHAPTER 20**

- Nonconforming Uses and Structures..... 20-1

**CHAPTER 21**

Zoning Board of Appeals..... 21-1

**CHAPTER 22**

Zoning Administration..... 22-1  
Section 22.01 Responsibilities  
Section 22.02 Township Board  
Section 22.03 Township Planning Commission  
Section 22.04 Zoning Board of Appeals  
Section 22.05 Zoning Enforcement Officials  
Section 22.06 Certificate of Zoning Approval, Building Permits  
and Certificates of Occupancy

**CHAPTER 23**

Amendments to the Zoning Ordinance and Map..... 23-1

**CHAPTER 24**

Violations and Penalties..... 24-1

**CHAPTER 25**

Effective date and Repealer.....25-1

**CHAPTER 1**

**SCOPE, TITLE, ORDINANCE CONSTRUCTION**

**SECTION 1.01 SHORT TITLE AND PURPOSE.**

This Ordinance shall be known and may be cited as the "Hamilton Township Zoning Ordinance." Within the following text it may be referred to as the "Ordinance". Pursuant to the authority of Act 110 of the Michigan Public Acts of 2006, the Michigan Zoning Enabling Act (MCL 125.3101 et seq.), the purpose of this Ordinance is to regulate the use of lands, premises and structures within the Township of Hamilton, in accordance with and for the purposes set forth in said Act.

**SECTION 1.02 CONFLICTING REGULATIONS**

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, 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 1.03 SCOPE**

No building or structure, or part thereof, shall hereafter be erected, constructed, altered or moved, and no land use commenced or continued within the unincorporated parts of the Township, contrary to the spirit of this Ordinance, except for the provisions of essential services, agricultural buildings exempt from Public Act 230 of 1972, as amended (State Construction Code Act, Section 2A), or as specifically authorized by this Ordinance. Special Exception Uses are granted by the Township only upon finding that specified conditions are met in accordance with Chapter 19 of this Ordinance.

**SECTION 1.04 USE REGULATIONS**

Except as otherwise provided herein, regulations governing land and building use is hereby established in each district specified in Chapter 2 of this Ordinance. Uses permitted in each district after Special Exception approval shall be permitted only in accordance with the Special Exception Approval standards and procedures of this Ordinance as established in Chapter 19.

**SECTION 1.05 USES NOT OTHERWISE SPECIFIED WITHIN A USE DISTRICT**

Uses which have not been specifically mentioned within any use district may be processed under the Special Exception Use Permit procedure, in accordance with Chapter 19 upon determination by the Township Planning Commission that such use is similar in nature and intent to those uses identified within the district. Such uses and related structures shall be subject to the area, height, bulk, and placement requirements for the district in which it is proposed.

**SECTION 1.06 LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot used in or necessary for compliance with the provisions of this Ordinance shall through sale or otherwise be reduced beyond said minimums or again be used to satisfy the zoning requirements of another lot.

**SECTION 1.07 PUBLIC UTILITY FACILITIES**

When operating requirements necessitate the locating of public utility facilities and uses (without storage yards) within a district in order to serve the immediate vicinity, such facilities shall be permitted in all zoning districts, subject to Special Exception by the Planning Commission in accordance with Chapter 19 of this Ordinance, review and approval of a submitted site plan, and a finding by the Planning Commission that the use is compatible to the surrounding area.





**CHAPTER 2**

**ZONING DISTRICTS AND MAP**

**SECTION 2.01 ESTABLISHMENT OF DISTRICTS**

Those portions of the Township of Hamilton, Van Buren County, Michigan are hereby divided into zoning districts, as named and described in the following Chapters. The boundaries of these zoning districts are established as shown on the Hamilton Township Zoning Map as established in Section 2.02 of this Ordinance.

**SECTION 2.02 CREATION OF ZONING DISTRICTS.**

For the purpose of this Ordinance, those portions of Hamilton Township, Van Buren County, Michigan shall be divided into the following zoning districts, which shall be known by the names and symbols here shown.

AG	Agricultural District
R-1	Rural Residential District
R-2	Medium Density Residential District
R-3	Manufactured Housing and Mobile Home Park District
R-4	Lake Residential District
C-1	Resort/Mixed Use District
C-2	General Commercial District
I-1	Industrial District
M	Manufacturing District

**SECTION 2.03 ZONING MAP.**

The boundaries of Hamilton Township zoning districts are shown on a map adopted by the Hamilton Township Board of Trustees. The map shall be entitled "The Zoning Map of Hamilton Township" and shall bear the date adopted or amended. It shall be the duty of the Township Supervisor and Township Clerk to authenticate such records by placing their official signatures thereon. Such map with all accompanying explanatory matter is hereby made a part of this Ordinance and shall be, as such, a part of this Ordinance as if the matters and information set forth thereon were all fully described herein.

**SECTION 2.04 APPLICATION OF THIS ORDINANCE.**

Except as otherwise provided in this Ordinance, erection, removal, moving, alteration or use of buildings and uses of land shall conform to the specific provisions for the zoning districts involved. No land shall be developed, redeveloped, use commenced, expanded or continued within the Township except as specifically, or by necessary implication, authorized by this Ordinance. Lawful nonconforming structures and uses existing at the time of passage of this Ordinance are specifically governed by Chapter 20, and generally governed by this Ordinance.

**SECTION 2.05 INTERPRETATION OF DISTRICT BOUNDARIES.**

- A. Unless otherwise shown, the boundaries of the districts are lot lines, the centerlines of streets or alleys, or such lines extended, and the limits of Hamilton Township.
- B. Where a district boundary line as shown on the Zoning Map, divides a lot, which was in a single ownership of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the most restricted portion of such lot, under this Ordinance, shall be considered as extending to the entire lot.
- C. Where due to the scale, lack of detail or illegibility of the Zoning Map of this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted upon written request, or upon its own motion, by the Zoning Board of Appeals, after recommendation by the Planning Commission.
- D. Where a district boundary line follows a shoreline, such boundary shall be construed to be the shoreline. In the event of a change in the shoreline, the boundary line shall be construed to move with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be structured to follow such centerlines.
- E. Boundaries indicated as approximately following platted lot lines, property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or as applicable amended thereto shall be construed as following such lines.



- F. Lines parallel to a street without indication of the depth from the street line shall be construed as having a depth of three hundred (300) feet from the front lot line.

**SECTION 2.06 PERMISSIVE ZONING.**

Land uses are permitted specifically in the various zoning districts of this Ordinance. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted. No land contained within any zoning district within Hamilton Township shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Chapter 20, Nonconforming Uses and Structures.

**SECTION 2.07 USES PERMITTED BY RIGHT.**

Permitted uses, as identified in Articles covering each district, are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the general provisions, parking regulations, landscaping, district intent, permit, certificate and site plan requirements found elsewhere in this Ordinance, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions, unless otherwise indicated herein.

**SECTION 2.08 USES PERMITTED UNDER SPECIAL EXCEPTION USE APPROVAL.**

The uses identified as Special Exception Approval Uses in Article 19 covering each district are recognized as possessing characteristics of such unique and special nature (relative to location, off-site impacts, design, size, public service, utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. Chapter 19 regarding procedure and requirements for conditional approval uses, shall apply to these uses.

**SECTION 2.09 ZONING OF VACATED AREAS.**

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



**SECTION 2.10 AREAS NOT INCLUDED WITHIN A DISTRICT**

In every case where land has not been included within a district on the Zoning Map, such land shall be so designated in the AG Zoning District until officially acted upon and designated by the Township Board as provided for in this Ordinance.

**CHAPTER 3  
ZONING DEFINITIONS**

**SECTION 3.01 INTERPRETATION OF LANGUAGE.**

For the purpose of this Ordinance, the following rules of interpretation shall apply to the text of this Ordinance:

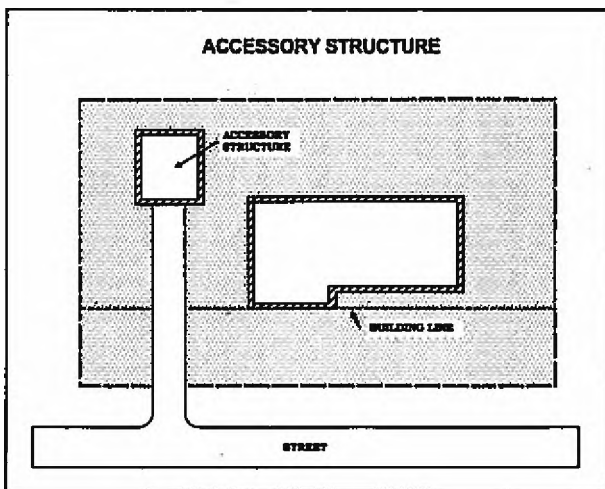
- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. 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.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for", "designed for" "intended for", "maintained for", or "occupied for".
- G. The word "person" includes an individual, a corporation, a partnership, a public utility, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either . . . or", the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.

3. "Either . . . or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.

I. Terms not herein defined shall have the meaning customarily assigned to them.

### SECTION 3.02 DEFINITIONS

For the purpose of this Ordinance the terms and words herein are defined as follows:



**ACCESSORY USE, BUILDING OR STRUCTURE:** A use, building, or structure that is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related.

**ADJACENT:** See LOT, ADJACENT.

**ADULT DAY CARE FACILITY:** A facility which provides daytime care for any part of a day but less than twenty-four (24) hour care for functionally impaired elderly persons provided through a structured program of social and

rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed, however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

**ADULT BUSINESSES:** Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually-oriented entertainment. (See Section 16.24)

**AGRICULTURAL USE:** A use of any land or building used for a purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops and animal husbandry.

**ALTERATIONS:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use".

**ALTERNATIVE TOWER STRUCTURE:** Man-made trees, clock towers, bell steeples, light poles, and other similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers

**ANIMAL FEEDING OPERATION, CONCENTRATED (CAFO):** A lot or building or combination of contiguous lots and buildings intended for the confined feeding, breeding, raising, or holding of at least one-thousand (1,000) animal units and specifically designed as a confinement area where manure may accumulate, or where the concentration of animals is such that vegetative cover cannot be maintained within the enclosure during the months of May, June, July, and August. Open lots used for the feeding and rearing of poultry (poultry ranges), shall be considered animal feed lots, but pastures shall not be considered animal feedlots.

**ANIMAL, WILD OR EXOTIC:** Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law. Wild or exotic animals shall include, but shall not be limited to the following: alligator and crocodile (family), deer (family), opossum (family); badger, wild dog or wolf (family); primate excluding human (family); bear, racoon, ferret, skunk, wild cat (family); lemur, spider (poisonous); coyote; lizard; snake and other reptile (poisonous); weasel (family); wild boar or swine (family); and marten.

**ANTENNA:** Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital, signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

**APARTMENT:** See DWELLING, MULTIPLE FAMILY.

**APPEAL:** A request or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

**ARCADE:** Any establishment which provides on its premises four or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest, or amusement of any description, not including musical devices.

**ARCHITECTURAL FEATURES:** Architectural features of a building including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

**AREA, GROSS SITE:** the total area of a planned unit development site including flood plains and water bodies

**AUTOMOBILE:** Unless specifically indicated otherwise, "automobile" shall mean any vehicle including cars, trucks, vans, motorcycles, and the like.

**AUTOMOBILE FILLING STATION:** A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use. Parking requirements for filling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

**AUTOMOBILE REPAIR:** Major or minor repair of automobiles defined as follows:

- A. **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

**AUTOMOBILE REPAIR GARAGE:** A premise primarily used for general automobile repair wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rustproofing; and other related activities.

**AUTOMOBILE SERVICE STATION:** A building or structure designed or used for the retail sale of fuel (stored only in DEQ approved containers), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises

overnight. Automobile Service Station shall not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rustproofing, high-volume of motor vehicle washing or sales of new or used cars, trucks, motorcycles or other land vehicles.

**AUTOMOBILE WASH ESTABLISHMENT:** An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles, either with self-service mechanisms or with the use of an automated conveyor system.

**BANK:** An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange.

**BAR, COCKTAIL LOUNGE, OR NIGHT CLUB:** An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where more than thirty percent (30%) of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customer, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and similar mechanical amusement devices.

**BASEMENT:** That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

**BED-N-BREAKFAST INN:** A dwelling in which overnight accommodations are provided or offered for transient guests for compensation by the owners and residents therein, said facilities may include meal service and shall extend for not more than (14) consecutive days.

**BEDROOM:** Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms. Any room designated as other than a bedroom but which in the judgment of the Township Planning Commission would normally be usable for sleeping purposes shall be considered a bedroom.

**BERM:** A mound of earth used to shield, screen, and buffer undesirable views and separate incompatible land uses.

**BIKEWAY:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**BILLBOARD (OFF PREMISE SIGN):** Any non-accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located.

**BLOCK:** The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Township, or any other barrier to the continuity of development.

**BOARD OF APPEALS:** The Hamilton Township Zoning Board of Appeals, created pursuant to the provisions of Michigan Public Act 184 of 1943, as amended.

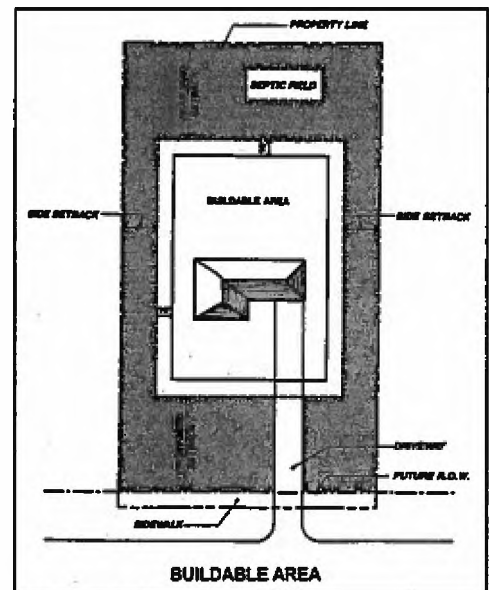
**BOARDING HOUSE:** A building, other than a hotel, where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for three or more persons. A rooming house shall be deemed a boarding house for the purposes of this Ordinance.

**BOAT:** Boats, floats, rafts, and personal watercraft. The attached, normal equipment required to support or transport the vehicle when outside the water shall be considered a part of the vehicle as well for the purposes of this definition and its use in this Zoning Ordinance.

**BREW PUB:** A restaurant or tavern (as defined in this Ordinance), licensed by the State of Michigan to produce and manufacture not more than five-thousand (5,000) barrels of beer per calendar year in Michigan, and sell at retail on the premises the beer produced and manufactured for consumption on or off the premises in the manner provided for in MCLA 436.31b and 426.31c.

**BUFFER ZONE:** A strip of land often required between certain zoning districts or land uses reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

**BUILDABLE AREA:** The area of a lot that is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.



**BUILDING:** Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall include tents, awnings, and carports; and also semi-trailers, vehicles, mobile

homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

**BUILDING, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only window and normal entrance or exit doors.

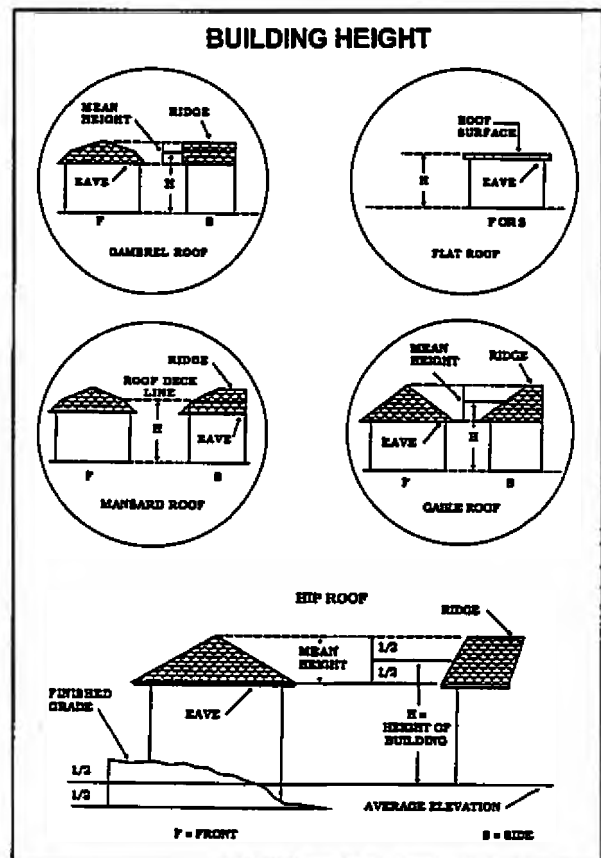
**BUILDING, DETACHED:** A principal building surrounded by open space.

**BUILDING HEIGHT:** The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and 75 percent of the height of an "A" frame. Chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

**BUILDING INSPECTOR:** The building inspector as authorized by Hamilton Township.

**BUILDING LINE:** A line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot. For the purposes of this Ordinance, a minimum building line is the same as a required setback line.

**BUILDING PERMIT:** The written authority issued by the building inspector permitting the construction, removal, moving, alteration, or use of a building in conformity with the provision of this Ordinance





**BUILDING, PRINCIPAL:** A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "BUILDING, ACCESSORY" and "USE, PRINCIPAL".)

**BUILDING, TEMPORARY:** A building that is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on construction site.

**BUMPER BLOCKS:** Concrete or cement cast units located at one end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles.

**CAMPER, PICK-UP:** A recreational unit designed to be mounted on a pick-up or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.

**CARETAKER LIVING QUARTERS:** An independent residential dwelling unit designed for and occupied by one or two persons, of which at least one is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

**CERTIFICATE OF OCCUPANCY:** A certificate issued by the building inspector, after final inspections, indicating his or her opinion that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a zoning permit has been issued shall be occupied until the building inspector has, after final inspection, issued a Certificate of Occupancy (CO). The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance

**CEMETERY:** Land used for the burial of the dead including columbariums, crematories, and mausoleums.

**CHURCH OR SYNAGOGUES:** Any structure wherein persons regularly assemble for religious activity including customary ancillary or accessory uses and activities.

**CLINIC, VETERINARY:** A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

**CLINIC, MEDICAL:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies

incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

**CLUB, HEALTH:** Any establishment providing physical culture or health services, including health clubs, racquetball or tennis clubs, reducing salons, or tanning salons.

**CLUB OR LODGE, PRIVATE:** A non-profit association of persons who are bonafide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this Ordinance.

**CLUSTER HOUSING:** A group of buildings and especially dwellings built close together to form relatively compact units on a sizeable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

**COMMERCIAL CENTER, PLANNED:** A business development under single ownership consisting of two (2) or more retail or service outlets characterized by common architecture, a pedestrian and vehicle circulation system, and off-street parking.

**COMMERCIAL, VEHICLE:** A truck or motor vehicle with cab and chassis and with a stake rack body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle that has a commercial license plate and is designed to accommodate a body length in excess of 9 feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors and trailers.

**CONDOMINIUM:** A system of separate ownership of individual units and/or multiple unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

**Condominium Act:** State of Michigan Public Act 59 of 1978, as amended.

**Condominium, Contractible:** A condominium project from which any portion of the submitted land or building may be withdrawn pursuant to express provisions in the condominium documents.

**Condominium, Conversion:** 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 portion of the common elements of the condominium project referred in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

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

**Condominium - General Common Element:** The common elements other than the limited common elements intended for the common use of all of the co-owners.

**Condominium - Limited Common Element:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**Condominium - Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

**Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, as amended.

**Condominium Unit, Site (i.e., Site Condominium Lot):** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot" for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage, and maximum floor area ratio.

**CONDOMINIUM UNIT:** The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

**CONVALESCENT HOME:** See NURSING HOME.

**CURB CUT:** The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

**DAY CARE:**

**Day Care Center:** A facility other than a private residence receiving more than six (6) pre-school, school age children, or elderly adults for group day care for periods of less than twenty-four (24) hours a day.

**Day Care Home:** A private home in which not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day.

**DECK:** An open, horizontal platform attached to the principal residential structure and that is used for outdoor leisure or recreational activities. The platform shall not be enclosed by a roof or walls or other screened or framed enclosure.

**DENSITY:** The number of dwelling units situated on or to be developed per acre of land.

**DETENTION FACILITY:** A facility designed for holding storm water runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle. A **Retention Facility** is a facility designed to hold storm water run-off permanently.

**DEVELOPMENT:** The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**DEVELOPMENT PLAN:** A scaled drawing which shows the existing conditions, the location and dimensions of improvements upon a parcel of land, including but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems, and drainage facilities, environmental features, and other elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

**DISTRIBUTION CENTER:** A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business. See also WAREHOUSE.

**DISTRICT:** A portion of Hamilton Township within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**DRAINAGE WAYS AND STREAMS:** Existing permanent or intermittent watercourses.

**DRIVE-IN ESTABLISHMENT:** A business establishment so developed that its principal 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 vehicles. Examples include but are not limited to, restaurants, cleaners, banks, and theaters.

**DRIVE-IN THEATER:** An open-air theater constructed and operated at an established location, without cover or roof, displaying motion pictures for the general public who view the screen or stage while seated in a vehicle. The term "drive-in theater" as used herein shall include the entire premises upon which such theater is constructed and operated, including parking areas and all other facilities accessory to such business.

**DRIVE-THROUGH ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off-premises may be facilitated.

**DRIVEWAY:** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**DUMPSTER:** A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

**DWELLING, MANUFACTURED:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and

- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.

**DWELLING, MOBILE HOME:** A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance. A mobile home is a type of manufactured housing.

**DWELLING, MULTIPLE-FAMILY:** A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwellings units include the following:

- A. **Apartment:** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit:** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

**DWELLING, ONE-FAMILY OR SINGLE-FAMILY:** A detached building containing not more than one dwelling unit designed for residential use, provided:

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. It has a minimum width across front, side and rear elevations of 24 feet and complies in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Building Code, then and in that event, such federal or state standard or regulation shall apply; further provided that

the provisions of this section shall not have the effect of making one family dwellings, which exist as of the effective date of this Ordinance, non-conforming.

- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the applicable building code for one-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission and shall have a perimeter wall as required.
- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to 10 percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of thirty (30) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single family "dwelling" as well as the character, design and appearance of at least twenty (20) percent of the lots within one quarter mile of the subject property; or if there is not a significant amount of

development within that area, by the character, design and appearance of at least two residential dwellings located outside of mobile home parks throughout the Township.

- G. The dwelling contains no additions or rooms or other areas that are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required herein.
- H. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. The foregoing standard shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.
- J. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

**DWELLING, TWO-FAMILY OR DUPLEX:** A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

**DWELLING UNIT:** A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, that part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance. A dwelling unit must have a minimum width of 24 feet across the front, sides and rear of said unit, except when same is located in a manufactured, or mobile home park.



**DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE:** A townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as row houses.

**EARTH – SHELTERED HOME:** A complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

**EASEMENT:** Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements, which give public or private utility companies the right to use land for the construction and maintenance of utilities.

**ERECTED:** The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

**ESSENTIAL SERVICES:** The term "essential services" shall mean the erection, construction, alteration or maintenance by public or quasi-public utilities or municipal departments or Township-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities. Telecommunication towers or facilities, alternative tower structures, and wireless communication facilities antenna are specifically excluded from this definition.

**EXCAVATION:** The removal of sand, stone, gravel, or fill dirt below the average grade of the surrounding land and/or road grade, whichever shall be the highest, excluding common household gardening and ground care.

**FAMILY:**

- A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or

- B. A collective number of individuals living together in one dwelling unit, whose relationship is of a continuing, nontransient, 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 or for an anticipated limited duration of a school term or terms or other similar determinable period.

**FARM:** All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bonafide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this Ordinance, farms shall not include establishments for keeping or raising fur-bearing animals, riding or boarding stables, commercial dog kennels, game fish hatcheries, piggeries, stockyards, or gravel or sand pits, unless such establishments are combined with other bona fide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants. The slaughtering of animals shall not be permitted unless occurring at a permitted slaughterhouse or the animal has been raised on site, it has been maintained on site for a normal life cycle or the proceeds from the slaughter are not a primary source of revenue, and the remains are disposed of properly and in accordance with State guidelines.

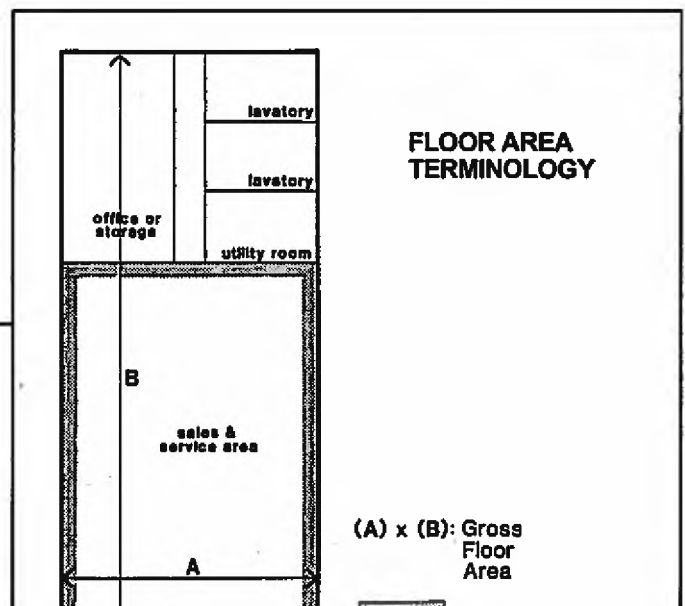
**FENCE:** An accessory structure of definite height and location intended to serve as a physical barrier to property ingress or egress, a screen from objectionable vista or noise, a marker, an enclosure in carrying out the requirements of this Ordinance, or for decorative use.

**FILL, FILLING:** The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

**FLOOR AREA:** The area of a building defined as follows.

- A. **Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

*McKenna Associates, Incorporated  
Hamilton Township Zoning Ordinance*



- B. **Floor Area, Net:** See FLOOR AREA, USABLE RESIDENTIAL and FLOOR AREA, USABLE NONRESIDENTIAL.
- C. **Floor Area, Usable Residential:** The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. **Floor Area, Usable Nonresidential:** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area issued for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area.

**FOSTER CARE HOME:** See STATE LICENSED RESIDENTIAL FACILITY.

**FOSTER CHILD:** A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

**GARAGE, PRIVATE:** An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

**GARBAGE:** All wastes, animal, fish, fowl, or vegetable matter incidental to the preparation, use, and storage of food for human consumption, or spoiled food.

**GARDEN CENTER:** An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies, landscaping materials, and equipment.

**GAS STATION:** See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

**GLARE:** The effect produced by brightness or a source of illumination sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**GOLF COURSE OR COUNTRY CLUB:** The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

**GOLF DRIVING RANGE:** An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

**GRADE:** A grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**GRADE, AVERAGE:** The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

**GRADE, FINISHED:** The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

**HAZARDOUS SUBSTANCES:** Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities with the exception of farming operations. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

**HOME OCCUPATION:** Any occupation conducted within a dwelling unit and carried on by the inhabitants thereof. Home occupations may provide for one (1) full-time non-resident employee. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby. No goods shall be sold from the premises which are not strictly incidental to the principal home occupation conducted therein.

**HOSPITAL:** An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

**HOTEL:** A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels customarily provide services such as desk service, maid service, laundering of linens, etc.

**HOUSING, ELDERLY:** An institution other than a hospital or hotel, which provides room and board to non-transient persons primarily sixty (60) years of age and older. Housing for the elderly may include:

- A. **Senior Apartments:** Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- B. **Elderly Housing Complex:** A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years or older or couples where either the husband or wife is sixty (60) years of age or older.
- C. **Congregate or Interim Care Housing:** A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- D. **Dependent Housing Facilities:** Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

**INGRESS AND EGRESS:** As used in this Ordinance, "ingress and egress" generally is used in reference to a driveway that allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway that allows pedestrians to enter or leave a parcel of property, a building, or another location.

**JUNK:** Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition that prevents their use for the purpose for which the product was manufactured.

**JUNKYARD:** An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

**KENNEL:** Any lot or premises on which more than three (3) dogs, ages six (6) months or older, are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, grooming or as pets; and may offer provisions for minor medical treatment including animal shelters.

**LABORATORY:** A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

**LAKE:** Any body of water, natural or artificial, defined as "inland lake or stream" in the Inland Lake and Stream Act of 1972, P.A. 1972, No. 451, as amended.

**LAND DIVISION:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in one (1) or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967 as amended.

**LANDFILL:** Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

**LIVESTOCK:** Horses, cattle, sheep, goats, hogs, and other domestic animals normally kept or raised on a farm.

**LOADING SPACE, OFF-STREET:** An off-street space of definite size and dimensions in accordance with the requirements of this Ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**LOT (OR ZONING LOT OR PARCEL):** For the purposes of enforcing this Ordinance, a lot is defined as a piece of land under one ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road or easement. A lot may consist of:

- A. A single Lot of Record.
- B. A portion of a Lot of Record.
- C. A combination of complete Lots of Record, or portion thereof.

D. A piece of land described by metes and bounds.

**LOT, ADJACENT:** Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

**LOT AREA, NET:** The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

**LOT AREA, GROSS:** The net lot area plus one-half (1/2) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

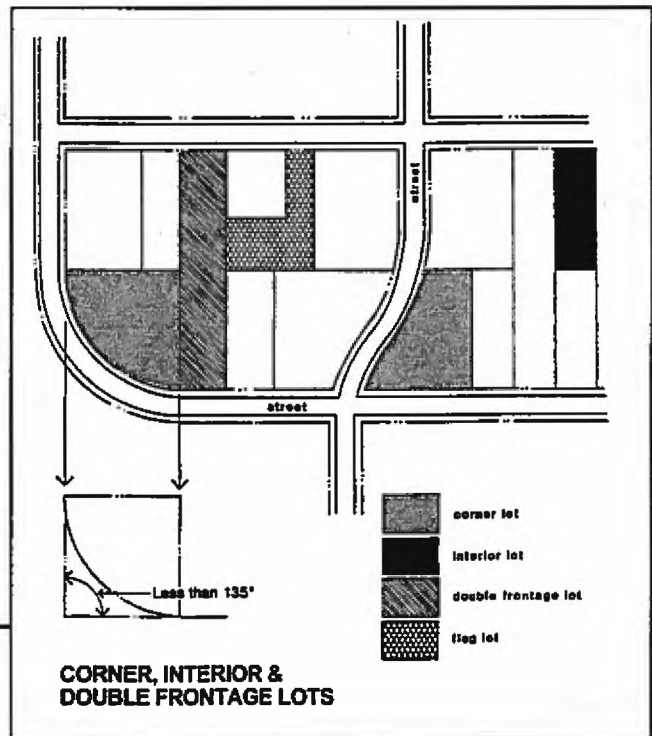
**LOT, CONTIGUOUS:** Lots adjoining each other.

**LOT, CORNER:** A lot of which at least two (2) adjacent sides abut their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve that intersect to form a corner.)

**LOT COVERAGE:** The part or percent of the lot that is occupied by buildings or structures.

**LOT DEPTH:** The horizontal distance between the front lot line and rear lot line, measured along the median between the side lot lines.

**LOT, DOUBLE FRONTAGE:** A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning



compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

**LOT, INTERIOR:** Any lot other than a corner lot with only one (1) lot line fronting on a street.

**LOT, LAKE:** A lot having any frontage directly upon a lake, natural or man-made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.

**LOT LINES:** The lines bounding a lot as follows:

- A. **Front Lot Line:** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. This line is typically located 33 feet from the center of the road right-of-way or the Section line. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit. In the case of a lake or waterfront lot, the front lot line shall mean the ordinary high water mark, and the front of the property shall face the water.
- B. **Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot. In the case of a lake or waterfront lot, the rear lot line shall mean the line separating the lot from the street right-of-way. The rear yard on these lots is opposite the waterfront.
- C. **Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**LOT OF RECORD:** A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Van Buren County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Van Buren County Register of Deeds.



**LOT WIDTH:** The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines.

**LOT SPLIT AND CONSOLIDATION:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Van Buren County Register of Deeds and/or the Township Treasurer. The division of lots shall take place in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended and the Hamilton Township Subdivision Regulations Ordinance.

**MAIN ACCESS DRIVE:** Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

**MASSAGE THERAPIST (Certified):** An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organization.

**MASTER PLAN:** The master plan is a document that is prepared under the guidance of the Hamilton Township Planning Commission and consists of graphic and written materials that indicate the general location for streets, parks, schools, public buildings and all physical development of the Township.

**MEZZANINE:** An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third (1/3) of the floor area of the story in which the level or levels are located. A mezzanine shall be deemed a full story if the vertical distance from the next floor below the mezzanine to the next floor above is twenty-four (24) feet or more.

**MICROBREWERY:** A brewer licensed by the State of Michigan which produces and manufactures in total, less than thirty-thousand (30,000) barrels of beer per year, and who may sell at the licensed brewery premises the beer produced and manufactured to consumers for consumption on or off the licensed brewery premises. In determining the thirty-thousand (30,000) barrel threshold, all brands and labels of a brewer whether brewed in this state or outside this state, shall be combined and all facilities for the production and manufacture of beer that are owned or controlled by the person(s) shall be treated as a single facility.

**MOBILE HOME PARK (MANUFACTURED HOUSING DEVELOPMENT):** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose

regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

**MOBILE HOME LOT:** An area within a mobile home park that is designated for the exclusive use of the occupants of a specific mobile home.

**MOTEL:** A series of attached, semi-detached, or detached rental units which may or may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty percent (50%) plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

**MOTOR HOME:** A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile home.

**MUNICIPALITY:** The word "municipality" shall mean the Township of Hamilton, Van Buren County, Michigan.

**NATURAL FEATURES:** Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

**NONCONFORMING BUILDING:** A building or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this Ordinance pertaining to buildings in the zoning district in which it is located.

**NONCONFORMING LOT:** A lot which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this Ordinance pertaining to lots in the zoning district in which it is located.

**NONCONFORMING USE:** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

**NUISANCE:** Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, endanger life and health, or the generation of an excessive or concentrated movement of people or things such as: (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 of congregation of people, particularly at night, (n) passenger traffic, or (o) invasion of non-abutting street frontage by traffic

**NURSERY, PLANT MATERIAL:** A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see OPEN AIR BUSINESS and ROADSIDE STAND.

**NURSING HOME, CONVALESCENT HOME, or REST HOME:** A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

**OCCUPANCY, CHANGE OF:** The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

**OCCUPANCY LOAD:** The number of individuals normally occupying a building or part thereof or for which the exit way facilities have been designed.

**OCCUPIED:** Used in any way at the time in question.

**OPEN AIR BUSINESS:** Any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

- A. Retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B. Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.

- C. Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D. Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.

**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 said structure.

**OPEN SPACE:** Lands open from ground to sky and devoted to outdoor recreation space, greenery, and resource protection. Developed open spaces may include, but are not limited to, playground fixtures, shelter, and tennis courts.

**OPEN SPACE, COMMON:** An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners, and occupants, and generally owned and maintained in common by them, often through a home owners or property owners association.

**OPEN SPACE, PUBLIC:** Any primarily undeveloped land intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

**OPEN STORAGE:** Any outdoor storage of building materials, sand, gravel, stone, lumber, equipment, or other supplies.

**OUTLOT:** A parcel of land which must be designated on a recorded plat as an outlot before it may be legally considered as such.

**PARCEL:** See LOT.

**PARKING LOT, OFF-STREET:** An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

**PARKING SPACE:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

**PARTY WALL:** A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one building from another and that is in joint use by each building.

**PERSON:** An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

**PERFORMANCE STANDARD:** A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

**PET:** A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

**PLANNED UNIT DEVELOPMENT:** A planned unit development may include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this Ordinance using innovative and effective planning approaches.

**PLAT:** A map of a subdivision of land.

**POULTRY:** Any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

**PORCH:** An exterior appendage to a building that has a separate roof or a roof integral with the building that forms a covered approach to a doorway or vestibule.

**Porch, Enclosed:** A porch separated from the outside by an all-weather partition or a partition that renders the area inside the partition habitable.

**Porch, Open:** A porch not separated from the outside by either an all-weather partition or a partition rendering the area inside the partition habitable.

**PROPERTY LINE:** The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also LOT LINE.

**PUBLIC NOTICE:** A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable State law.

**PUBLIC UTILITY:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

**RECREATION ESTABLISHMENT, INDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

**RECREATION ESTABLISHMENT, OUTDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusements, or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

**RECREATIONAL LAND:** Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

**RECREATIONAL VEHICLE:** A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, or trailer that is designed for private recreational or travel use and which is further defined as:

- A. **Travel Trailer:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

- B. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C. **Motor Home (Trailer Coach):** a self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one (1) or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor home generally contains sanitary, water, and electrical facilities.
- D. **Folding Tent Trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.
- E. **Boats and Boat Trailers:** Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. **Other Recreational Equipment:** Snowmobiles, all terrain vehicles, special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

**REFUSE:** The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

**RESTAURANT:** A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- A. **Restaurant, Carry-Out:** A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- B. **Restaurant, Drive-In:** A drive-in restaurant is a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.

- C. **Restaurant, Drive-Through:** A drive-through restaurant is a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- D. **Restaurant, Fast-Food:** A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- E. **Restaurant, Standard:** A standard restaurant is a restaurant whose method of operation involves either:
  - 1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or
  - 2. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- F. **Bar/Lounge:** A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If an establishment includes a bar or lounge and a separate dining facility, the establishment shall be considered a bar/lounge if more than 50 percent of the usable floor area of the entire establishment is used for the bar/lounge.

**RIGHT-OF-WAY:** A right-of-way as defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

**ROADSIDE STAND:** A temporary or existing permanent building operated for the purpose of selling products grown or produced on the premises together with incidental related products, and its use shall not make it into a commercial district, land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity for purposes of this Ordinance.



**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, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and/or storage. Plans presented showing 1, 2 or 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.

**ROOMING HOUSE:** See BOARDING HOUSE.

**RUBBISH:** The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, etc.

**SATELLITE ANTENNA:** An accessory structure which at its widest dimension is in excess of 36 inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

**SAWMILL (Agricultural)-** A facility for the primary processing of forest products in an agricultural zoning district, provided that such facility is found to not seriously interfere with accepted farming practices, employs three or fewer persons (including the property owner), where product is milled or planed in a bulk manner for private or small scale commercial purposes either outdoors or in an enclosed building and where it is found to be compatible within close proximity to agricultural and rural residential land uses.

**SAWMILL (Industrial)-** A facility for the primary processing of forest products grown off-site and milled or planed in a bulk manner for commercial purposes; in a facility located in an industrial zoning district; where more than three persons are employed; where the processing takes place in an enclosed building, and where the finished product is shipped for retail or wholesale trade.

**SCHOOL, CHARTER (Public School Academy):** A public school and a school district, subject to the leadership and general supervision of the state board over all public education. A charter school or public school academy is authorized by the executive action of the authorizing board, which may be the board of a school district, an intermediate school board, or the board of a community college or a state public university. A charter school shall not be organized by a church or other religious organization.

**SCHOOL, HOME:** A school which enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

**SCHOOL, NONPUBLIC:** A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC:** A public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SCREEN, OBSCURING:** A visual barrier between adjacent area or uses consisting of structures, such as a wall or fence, or living plant material.

**SETBACK:** The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The **MINIMUM REQUIRED SETBACK** is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of **YARD**).

**SIDEWALK:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**SIGN:** Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designed to be visible from outside any building or structure in which, upon which, or attached to which it may be located. Various types of signs and sign-related terms are defined in Chapter 15 of this Ordinance.

**SLAUGHTERHOUSE:** A commercial/industrial operation where the majority of proceeds come from the butchering of animals, not necessarily raised on site, and the processing and storage of animal by products and waste that results from the slaughtering process.

**SITE PLAN:** A plan showing all salient features of a proposed development, as required in Chapter 18, so that it may be evaluated to determine whether it meets the provisions of this Ordinance.

**SPECIAL EVENT:** An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit Hamilton Township community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

**STABLE, PRIVATE:** A private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

**STABLE, PUBLIC:** A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

**STATE LICENSED RESIDENTIAL FACILITY:** Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

- A. **Adult Foster Care Facility:** A governmental or nongovernmental establishment having as its principle function the receiving of adults, 18 years of age or older, for foster care in accordance with Public Act 218 of 1974, as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Consumer & Industry Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released or assigned to a correctional facility. The following four (4) types of Adult Foster Care Homes are provided for by these rules:
  - 1. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for

5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

2. **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. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
  3. **Adult Foster Care Large Group Home:** An adult foster care facility with the approved capacity to receive at least 13 but not more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
  4. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
- B. **Foster Family Home:** A private residence that houses four (4) or fewer foster children, up to age 19, under constant child care and supervision. 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.
- C. **Foster Family Group Home:** A private residence that houses five (5) or six (6) foster children, up to age 19, under constant care and supervision. 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.

**STATE EQUALIZED VALUATION:** The value shown on the Township assessment roll as equalized through the process of State and County equalization.

**STORAGE:** The depositing of material, products for sale or use, or other items for a period greater than 24 hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

**STORY:** That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area to at least 50 percent of the usable floor area of the floor immediately below it.

A mezzanine shall be deemed a full story when it covers more than one-third (1/3) of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.

A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

**STORY, HALF:** The uppermost story lying under a pitched roof, the usable floor area of which does not exceed two-thirds of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven (7) feet, six (6) inches.

**STREET:** A public or private street, road or thoroughfare intended primarily to provide vehicular circulation and access to abutting property. Various types of streets are defined as follows:

- A. **Collector Street:** A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.
- B. **Cul-De-Sac:** A street that terminates in a vehicular turnaround.
- C. **Local or Minor Street:** A street whose sole function is to provide access to abutting properties.
- D. **Major Street:** A street that carries high volumes of traffic and serves as a main avenue through or around the Township. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this Ordinance, major streets shall include those streets designated as "county primary", "county local" or a state highway.
- E. **Private Street or Road:** A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is

normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Township, County, State or Federal Government.

- F. **Public Street or Road:** A street or road, the right-of-way and improvements of which have been accepted for maintenance by the County, State or Federal Government.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having location such location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, or girders, or any change in the width or number of exits, or any substantial change in the roof.

**STRUCTURE, OUTDOOR ADVERTISING:** Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

**SUBDIVISION PLAT:** The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended, and the Hamilton Township Subdivision Regulations.

**SWIMMING POOL:** Shall mean any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

**TELECOMMUNICATIONS TOWERS AND FACILITIES OR TOWER:** All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities, short wave receiving facilities,

radio and television broadcast reception facilities, satellite dishes, federally licensed amateur (HAM) radio facilities, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**TEMPORARY USE OR BUILDING:** See BUILDING, TEMPORARY or USE, TEMPORARY.

**THEATER:** An enclosed building used for presenting performances or motion pictures, which are observed by paying patrons from seats situated within the building.

**TOXIC OR HAZARDOUS WASTE:** Waste or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. An increase in mortality, or
- B. An increase in serious irreversible illness, or
- C. Serious incapacitating, but reversible illness, or
- D. Substantial present or potential hazard to human health or the environment.

**TRAILER:** See RECREATIONAL VEHICLE; DWELLING, MOBILE HOME; and UTILITY TRAILER.

**TRANSITION:** The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

**TRUCK STORAGE:** An area used for the temporary storage of private trucks or trucks for hire.

**TRUCK TERMINAL:** a structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution to other parts of the Township or to be amalgamated for delivery in larger units to other points in the metropolitan area; or for distribution or amalgamation involving transfer to other modes of transportation.

**USE:** The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

**USE, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**USE, SPECIAL EXCEPTION:** A use that is subject to special approval by the Township Planning Commission. A special use may be granted only where there is a specific provision in this ordinance.

**USE, PERMITTED:** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL:** The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

**USE, TEMPORARY:** Shall mean a use permitted to exist during a specified period of time under conditions and procedures as provided in this Ordinance.

**UTILITY ROOM:** A utility room is a room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

**UTILITY TRAILER:** A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

**VARIANCE:** A modification of the literal provisions of the Zoning Ordinance in accordance with the provisions herein in cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) practical difficulties, applying to property. A variance is not justified unless all three elements are present in the case.

A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance. A use variance is not a special exception use.



**VEHICLE, COMMERCIAL:** Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of six-thousand-five-hundred (6,500) pounds. Any commercially licensed vehicle that does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles:

- A. **Semi-trailer:** A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. Semi-trailer shall include trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures.
- B. **Truck Tractor:** A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers and similar units, and which is not customarily operated without an attached trailer.
- C. **Other Commercial Vehicles:** Any truck or motor vehicle with a cab and chassis with a stake rack, dump body, wrecker body, tanker body, or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches on a bus. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. Commercial vehicles do not include motor homes or recreational vehicles, but do include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, and similar vehicles.

**WALL, OBSCURING:** Shall mean a masonry structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**WALL, PARAPET:** An extension of a building wall above the roof, which may serve to screen roof mounted mechanical equipment.

**WALL, RETAINING:** A permanent solid barrier of brick, stone, or other opaque material intended to enclose an area. For the purpose of this Ordinance, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. Moreover, all retaining walls shall be constructed and/or painted, tinted, or colored in one color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted, or designed thereon.

**WAREHOUSE:** A building used for short and/or long term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing.

**WAREHOUSE, MINIATURE OR SELF-STORAGE:** A building or group of buildings in a controlled access and /or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customers goods or wares.

**WASTE RECEPTACLE STATION:** Any exterior space that is not a principal use for containers, structures, or other receptacles intended for temporary storage of solid waste materials.

**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.

**WETLAND, REGULATED:** Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 451, as amended, and generally defined as 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 and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river, or a stream,
- B. Not contiguous to an inland lake, pond, river, or stream, and more than five (5) acres in size, or
- C. Not contiguous to an inland lake, pond, river, or stream and five (5) acres or less in size if the Michigan Department of Natural Resources determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

**WHOLESALE SALES:** On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

**WIRELESS COMMUNICATION FACILITIES:** All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving

radio signals, including but not limited to radio and television towers, cellular telephone and paging towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included are facilities for citizen band radio, short wave radio, ham and amateur radio, television reception antenna, satellite dishes, and government facilities that are subject to state and federal law. Wireless communication facilities shall be specifically excluded from the definition of "public facility" or "essential service."

**WIRELESS COMMUNICATION SUPPORT STRUCTURES (TOWERS):** Any structure used to support attached wireless communication facilities, or other antenna or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, lattice towers, light poles, wood poles, and guyed towers or other similar structures which support wireless communication facilities.

**YARD:** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The Minimum Required Setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance.

- A. **Yard, Front:** A yard 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 building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. **Yard, Rear:** A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- C. **Yard, Side:** A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

**ZONING OFFICIAL:** Official assisting Township Board, Township Supervisor, Planning Commission and Zoning Board of Appeals in administering the regulations of this Ordinance.

**ZONING PERMIT:** The written authority issued by the Zoning Administrator permitting the construction, removal, moving, alteration, or use of a building or land in conformity with this Ordinance.

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**CHAPTER 4**

**AG AGRICULTURAL DISTRICT**

**SECTION 4.01 DESCRIPTION AND PURPOSE**

This zoning district is intended to accommodate land currently under cultivation, wetlands, woodlands, and other lands in an undisturbed state. Farming, crop cultivation, dairy and livestock operations, and rural single family dwellings are suitable uses in this district.

**SECTION 4.02 PERMITTED USES**

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

- A. Farms for both general and specialized farming, together with farm dwellings, barns, and other buildings customarily incidental to farming, and other installations necessary to such farms including temporary housing for migrant workers, and its sanitary facilities, provided that such activities are in conformance with all requirements of the Van Buren County Health Department; the State of Michigan Right to Farm Act including the generally accepted agricultural and management practices as promulgated by and under the direction of the Michigan Department of Agriculture and all revisions thereto; Michigan Department of Environmental Quality; and/or any other federal, state and/or local regulating agency having jurisdiction. Horses may be kept on parcels of two (2) acres or more.
- B. Greenhouses, nurseries, orchards, vineyards, and apiaries.

- C. Roadside stands or farm markets for the sale of products grown or produced upon the premises, together with incidental products related thereto not grown or produced upon the premises, but which are an unsubstantial part of said business.
- D. Riding stables, where horses are boarded and/or rented.
- E. Single family dwellings.
- F. Government or municipally owned and operated parks, parkways, recreational facilities and buildings.
- G. Adult foster care family homes of six (6) or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- H. Churches.
- I. Home Occupations, in accordance with Section 16.13.
- J. Accessory structures customarily incidental to the above permitted uses.
- K. Day Care home.

**SECTION 4.03 USES PERMITTED BY SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards and the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township Board are necessary to fulfill the purposes of this Ordinance.

- A. Removal and processing of topsoil, sand, gravel or other such minerals.
- B. Commercial kennels and animal boarding establishments.

- C. **Municipal, county, regional and state owned buildings and service facilities (not including outdoor storage yards) when in character with the surrounding residential and agricultural area.**
- D. **Private recreation areas, uses, and facilities including country clubs, golf courses, and hunting preserves.**
- E. **Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, (not including service or storage yards) when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall include towers, antennas, and buildings for wireless communication facilities, complying with any applicable Ordinance.**
- F. **Cemeteries.**
- G. **Hospitals, clinics, sanatoriums, nursing homes, assisted living facilities, and other similar uses.**
- H. **Essential Services.**
- I. **Bed and Breakfast Facilities.**
- J. **Housing for seasonal labor, provided that same conforms with all requirements of the Van Buren County Health Department and the State of Michigan.**
- K. **Planned Unit Developments.**
- L. **Other uses similar to permitted uses which are deemed compatible with the character and intent of the District.**

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**SECTION 4.04 DEVELOPMENT STANDARDS**

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

- A. **HEIGHT.** No residential building or structure shall exceed thirty-five (35) feet in height. Agricultural structures such as storage silos, barns, grain elevators and similar structures are exempt from the maximum height requirements of this Ordinance.
- B. **FRONT YARD.** There shall be a front yard of not less than seventy seven (77) feet from the front lot line on State Highways and County Primary Roads and fifty (50) feet from the front lot line on other roads in the Township.
- C. **SIDE YARD.** For all buildings and structures, there shall be a side yard of not less than twenty (20) feet.
- D. **REAR YARD.** There shall be a rear yard of not less than fifty (50) feet.
- E. **LOT AREA.** The minimum lot area in this District, unless specified elsewhere, shall be one (1) acre inclusive of public highway right-of-way.
- F. **LOT WIDTH.** The minimum lot width in this District, unless specified elsewhere, shall be one hundred fifty (150) feet. The lot width shall be measured at the front building line.
- G. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the applicable minimum lot width, except where said land is served by an access easement complying with the provisions of 16.10.



- H. **MINIMUM FLOOR AREA.** Each dwelling unit, unless specified elsewhere, shall have a total minimum of nine hundred sixty (960) square feet of useable floor area on the main floor.
  
- I. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses except detached single family residential uses and permitted agricultural uses in accordance with Chapter 18 of this Ordinance.

## **CHAPTER 5**

### **R-1 LOW DENSITY (RURAL) RESIDENTIAL DISTRICT**

#### **SECTION 5.01 DESCRIPTION AND PURPOSES**

This District is intended for single family dwellings interspersed within tracts of agricultural uses and undeveloped open space for the purpose of maintaining rural atmosphere, preserving open space and low population density. Utilities are not encouraged for extension in this area and all homes may utilize on-site well and sanitary septic systems as permitted by the Van Buren County Health Department.

#### **SECTION 5.02 PERMITTED USES**

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

- A. Single family detached dwellings.
- B. Adult foster care family homes of six (6) or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- C. Home Occupations in accordance with Section 16.13.
- D. Day Care Home.
- E. Accessory structures customarily incidental to the above permitted uses.

#### **SECTION 5.03 USES PERMITTED BY SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards and the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township

Board are necessary to fulfill the purposes of this Ordinance.

- A. Municipal, county, regional and state owned buildings and service facilities (not including outdoor storage yards) when in character with the surrounding residential and agricultural area.
- B. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto.
- C. Parochial, and private elementary, intermediate, and/or high schools offering courses in general education.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- E. Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communication facilities.
- F. Cemeteries.
- G. Essential Services.
- H. Government or Municipally owned and operated parks, parkways, and recreational facilities and buildings.
- I. Bed and Breakfast Facilities.
- J. Planned Unit Development.
- L. Other uses similar to permitted uses which are deemed compatible with the character and intent of the District.

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**SECTION 5.04 DEVELOPMENT STANDARDS**

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

- A. **HEIGHT REGULATIONS.** No residential building or accessory structure shall exceed thirty-five (35) feet in height.
- B. **FRONT YARD.** There shall be a front yard of not less than thirty-five (35) feet from front lot line.
- C. **SIDE YARD.** For all buildings and structures, there shall be side yards of not less than ten (10) feet.
- D. **REAR YARD.** There shall be a rear yard of not less than twenty-five (25) feet.
- E. **LOT AREA.** The minimum lot area in this District shall be thirty thousand (30,000) square feet inclusive of public highway rights-of-way.
- F. **LOT WIDTH.** The minimum lot width in this District, unless specified elsewhere, shall be one hundred (100) feet measured at the front building line.
- G. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the applicable minimum lot width, except where said land is served by an access easement complying with the provisions of Section 16.10.
- H. **MINIMUM FLOOR AREA.** Each dwelling unit, unless specified elsewhere, shall have a total minimum of nine hundred sixty (960) square feet of usable floor area on the main floor.
- I. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses except detached single family residential uses in accordance with Chapter 18.

## **CHAPTER 6**

### **R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT**

#### **SECTION 6.01 DESCRIPTION AND PURPOSE**

This District is intended for a mixture of housing types including single and two family dwellings, condominium developments, multiple family structures, senior housing facilities, apartments, and similar housing alternatives.

#### **SECTION 6.02 PERMITTED USES**

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

- A. Single and two family dwellings.
- B. Adult foster care family six (6) or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- C. Private schools.
- D. Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by a governmental agency or a not-for-profit organization.
- E. Home Occupations in accordance with Section 16.13.
- F. Accessory structures customarily incidental to the above permitted uses.

#### **SECTION 6.03 USES PERMITTED BY SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards and the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township

Board are necessary to fulfill the purposes of this Ordinance.

- A. Municipal, county, regional and state owned buildings including libraries, art galleries, museums, offices and service facilities (not including outdoor storage yards) when in character with the surrounding residential area.
- B. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- C. Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communications facilities.
- D. Multiple family dwellings, including but not limited to, apartments, low-rise garden apartment houses, townhouses, terraces, efficiency units, row houses, senior housing facilities, cluster housing and condominium developments.
- E. Cemeteries.
- F. Planned Unit Developments
- G. Essential Services
- H. Adult foster care homes of between 7 and 12 persons.
- I. Churches, synagogues and other places of worship.
- J. Nursing, convalescent, and assisted living facilities.
- K. Bed and Breakfast Inns.
- L. Other uses similar to permitted uses which are deemed compatible with the character and intent of the District.

**SECTION 6.04 DEVELOPMENT STANDARDS**

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

- A. **HEIGHT REGULATIONS.** No building or structure shall exceed thirty-five (35) feet in height or two and one half (2 ½) stories in height.
- B. **FRONT YARD.** There shall be a front yard of not less than twenty five (25) feet from the front property line
- C. **SIDE YARD.** There shall be side yards as follows:
  - 1. For single and two family dwellings, side yards shall be not less than ten (10) feet.
  - 2. For multi-family dwellings and all other permitted uses, each side yard shall be not less than fifteen (15) feet.
- D. **REAR YARD.** There shall be a rear yard of not less than twenty-five (25) feet.
- E. **LOT AREA.** The minimum lot area in this District, unless specified elsewhere, shall be:
  - 1. Single family dwellings shall have a minimum of thirty thousand (30,000) square feet.
  - 2. Single family dwelling with public water and sewer shall have a minimum of twenty-two thousand (22,000) square feet.
  - 3. Two family parcels shall have a minimum of forty-nine thousand (49,000) square feet.
  - 4. Multiple family developments shall have a minimum lot area of two (2) acres and lot width of one hundred and fifty (150) feet.
- F. **LOT WIDTH.** The minimum lot width in this District, unless specified elsewhere, shall be one hundred (100) feet measured at the front building line.

- G. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be one hundred (100) feet, except where said land is served by an access easement complying with the provisions of Section 16.10.
  
- H. **MINIMUM FLOOR AREA.** Each single family and two family dwelling shall have a minimum usable floor area of eight hundred sixty-four (864) square feet per unit. Each multi family dwelling shall have minimum usable floor area as follows: one bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.
  
- I. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses except detached single and two-family residential uses located on individual parcels in accordance with Chapter 18.
  
- J. **PLANNED UNIT DEVELOPMENT.** Open Space Developments are permitted and encouraged in the R-2 District, subject to the standards and approval provisions as set forth in Chapter 13 of this Ordinance.



**CHAPTER 7**

**R-3 MANUFACTURED HOUSING AND MOBILE HOME PARK DISTRICT**

**SECTION 7.01 INTENT**

The MHP, Manufactured Housing and Mobile Home Park District, is intended to provide for the location and regulation of mobile home parks. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured housing parks shall be located in conformance with the following:

- A. Manufactured home parks shall serve as a transition zone between residential and non-residential districts. Manufactured home parks should not be located where they would interrupt the continuity of permanent single family neighborhoods.
- B. On sites adjacent to existing manufactured home parks; however, sites, which meet all other locational criteria of this Section, may be appropriate.
- C. With paved vehicular access to a paved major thoroughfare or collector road.
- D. Sanitary sewer and water supply shall be available with sufficient capacity to serve the residents and to provide fire protection. Public sewer systems shall be required in manufactured home parks, if available within 200 feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. Furthermore, the location of a manufactured housing park shall not have an adverse impact on the proper functioning of community facilities and utility systems, including but not limited to the following: roads, sanitary sewers, water, storm drainage, police and fire protection, and the educational system.
- E. Outside of a designated floodway.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended – MCL 125.2301) and the Manufactured Housing Commission Rules govern all manufactured home parks. When regulations in this Article exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that manufactured home parks meet the development and site plan standards established by this Ordinance for other comparable residential development and to promote the health, safety and welfare of the Township's residents.

### **SECTION 7.02 PERMITTED PRINCIPAL USES**

In all areas zoned MHP, Manufactured Housing and Mobile Home Park District, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses.

- A. Manufactured housing parks and subdivisions.
- B. Adult care and child care facilities that provide care for up to six (6) individuals.
- C. Home Occupations in accordance with Section 16.13.
- D. Essential services; provided there is no building or outdoor storage yard.

### **SECTION 7.03 PERMITTED ACCESSORY USES**

Accessory buildings, uses and activities customarily incidental to any of the above-named permitted uses, subject to the provisions of this Chapter.

**SECTION 7.04 DWELLING UNIT SETUP REQUIREMENTS**

Each dwelling unit shall be installed pursuant to the manufacturer's setup instructions, which setup installation specifications shall, at a minimum, comply with the Michigan Mobile Home Commission Rules, as promulgated under the Mobile Home Commission Act, being Act 96 of Michigan Public Acts of 1987, as amended - MCL 125.2301. Said mobile home shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission. Said mobile home shall also be installed with the wheels and towing mechanism removed, and shall have a perimeter wall or skirting around said dwelling unit for protection against the dangers of fire and rodents. Such skirting shall be constructed of metal, fiberglass, wood, vinyl siding, concrete, brick, cement block or stone, and in the event said skirting is wood or metal, same shall be painted or colored to match or compliment the color of the manufactured home or mobile home, and to prevent deterioration.

**SECTION 7.05 DEVELOPMENT STANDARDS AND REQUIREMENTS**

**A. PRELIMINARY PLAN REVIEW**

Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the developer and Planning Commission shall follow the procedures and requirements of this Ordinance, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules.

Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within sixty (60) days after the Township officially receives the plan.

**B. MINIMUM REQUIREMENTS**

Manufactured home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:

1. **GENERAL AUTHORITY:** Manufactured home parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured home parks. Application for permit to construct a Manufactured Housing Park shall be submitted to the Michigan Department of Consumer & Industry Services. Consumer & Industry Services, Construction Codes Bureau is the agency charged with licensing of manufactured home parks. Preparation of the application, support data, and local agency review of the above mentioned materials shall conform to the requirements of Act 96.
2. **CODES:** All structures and utilities to be constructed, altered, or repaired in a manufactured home park shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured home built prior to June 15, 1976 shall have been constructed to the State of Michigan Standards in effect at that time. All structures and improvements to be constructed or made under the Township Building Code shall have a building permit issued therefore by the Township Building Inspector.
3. **PARCEL SIZE:** The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.

4. **SITE SIZE:** The manufactured housing park shall be developed with sites having a minimum size of 5,500 square feet per manufactured home unit. This 5,500 square foot minimum for any one site may be reduced 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.
  
5. **DIMENSIONAL REQUIREMENT:** Manufactured homes shall comply with the following minimum distances and setbacks:
  - a. Twenty (20) feet from any part of an adjacent manufactured home.
  - b. Ten (10) feet from any on-site parking space of an adjacent manufactured home site.
  - c. Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured home.
  - d. Fifty (50) feet from any permanent building.
  - e. One hundred (100) feet from any baseball, softball, or similar recreational field.
  - f. Ten (10) feet from the edge of an internal road, provided that such road is not dedicated to the public. Manufactured homes and other structures in the MHP District shall be set back at least twenty (20) feet from the right-of-way line of a dedicated public road with the manufactured home park.
  - g. Seven (7) feet from any parking bay.
  - h. Seven (7) feet from a common pedestrian walkway.
  - i. All manufactured homes and accessory buildings shall be set back not less than twenty-five (25) feet from any park boundary line, including the future right-of-way line of abutting streets and highways.
  - j. Forty (40) feet from the edge of any railroad right-of-way.
  
6. **BUILDING HEIGHT:** Buildings in the MHP district shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.
  
7. **ROADS:** Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:

- a. Two-way streets shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted on one side only, and forty-one (41) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
- b. One-way streets shall have a minimum width of thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted on one side only, and thirty-three (33) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
- c. The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule 908 and Rule 47 of the Michigan Department of Environmental Quality standards.
- d. Cul-de-sacs, where proposed, shall have a minimum radius of thirty (30) feet (60 ft. in diameter). Maximum cul-de-sac length shall be one-thousand (1,000) feet, provided no more than thirty-five (35) units may be served by a single means of access. A dead end road shall terminate with an adequate turning area. A blunt-end road is prohibited.
- e. Adequate sight distance shall be provided at all intersections.
- f. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement, which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
- g. All roads shall be clearly marked with appropriate identification and traffic control signs. The name of any streets or roads shall be approved by the County Information Services IFS.
- h. All roads shall be hard-surfaced and may be constructed with curbs and gutters.

**8. PARKING**

- a. All manufactured housing sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules 925 and 926.
- b. In addition, a minimum of one (1) parking space for every three (3) manufactured housing sites shall be provided for visitor parking located convenient to the area served.
- c. Off-street parking in accordance with Chapter 17 of this Ordinance shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
- d. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.
- e. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing park, but shall be limited to use only by residents of the manufactured housing parks. The location of such storage areas shall be shown on the site plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured housing parks. Such storage area shall be surfaced with gravel, asphalt or similar substance and shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Common laundry drying areas, trash collection stations, surface mounted transformers, and similar equipment and facilities shall also be screened from view by plant material and/or man-made screens.

9. **SIDEWALKS:** Concrete sidewalks having a minimum width of four (4) feet shall be provided on at least one side of collector roads in the manufactured housing park.

**10. ACCESSORY BUILDING AND FACILITIES**

- a. Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only and shall be shown on the submitted Preliminary Plan for approval.
- b. Site-built structures within a manufactured housing park shall be constructed in compliance with the Building Codes and shall require all applicable permits. Any addition to a manufactured housing unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the Building Codes.
- c. No personal property, except motor vehicles, shall be stored outside or under any manufactured home. Storage structures (e.g., sheds, garages, etc.) may be used to store personal property on site. The installation of any such shed or garage shall require a Township building permit. Storage sheds need not be supplied by the owner or operator of the manufactured housing park.
- d. Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.

**11. OPEN SPACE:** Open space shall be provided in any manufactured housing park containing fifty (50) or more manufactured housing sites, and maintained by the owner or operator of the park. The open space shall comply with the following requirements:

- a. A minimum of two percent (2%) of the park's gross acreage shall be dedicated to well drained, usable open space developed with appropriate recreational facilities and play equipment, provided that a minimum of twenty-five-thousand (25,000) square feet of contiguous open space is available to residents.
- b. Open space shall be shaped and located conveniently in relation to the majority of dwelling units intended to be served. Up to twenty-five percent (25%) of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.



12. LANDSCAPING AND SCREENING

- a. **PERIMETER SCREENING:** All manufactured housing parks shall be screened from existing adjacent residential uses by either a six (6) foot privacy fence or a densely planted landscaped greenbelt. In addition, a landscaped buffer shall be provided along the public road frontage of any manufactured housing park.
  - i. If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
  - ii. If a landscaped greenbelt is used, it shall be a minimum of twenty (20) feet in width and consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
- b. **LANDSCAPING ADJACENT TO RIGHTS-OF-WAY:** A landscaped berm measuring three (3) feet in height along a landscaped greenbelt shall be constructed along the public rights-of-way on which the manufactured housing park fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Landscaping adjacent to the road shall comply with the following requirements, which are consistent with landscaping required for other types of development in Hamilton Township:

<u>Type</u>	<u>Requirements</u>
<u>Deciduous street tree (e.g. Red or Norway Maple, Linden, Ash)</u>	<u>1 per 40 lineal feet of road frontage</u>
<u>Deciduous or evergreen shrubs</u>	<u>1 per 3 lineal feet of road frontage</u>

- c. **SITE LANDSCAPING:** A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
  - d. **PARKING LOT LANDSCAPING:** Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one-hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.
13. **CANOPIES:** Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sunroom or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Section but shall not require a building permit unless fully enclosed or exceeding ten (10) foot by ten (10) foot in size.
14. **WASTE RECEPTACLES:** If proposed, waste receptacles shall comply with the following requirements as well as Part 5 of the MDEQ Standards for waste receptacles:
- a. Receptacles shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured housing park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle. Receptacles shall be provided within one-hundred-fifty (150) feet of each manufactured housing unit, unless curb-side collection is provided.
  - b. Receptacles shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other sides.
  - c. Receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.
15. **SIGNS**
- a. Each manufactured housing park shall be permitted either:

- i. Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or
    - ii. One (1) sign that shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.
  - b. Management offices and community buildings in a manufactured housing park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.
16. **WATER AND SEWER SERVICE:** All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Van Buren County Health Department and the Michigan Department of Public Health. Public sewer systems shall be required in manufactured housing parks, if available within two-hundred (200) feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. The plumbing connections to each manufactured housing site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.
17. **STORM DRAINAGE:** All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, independent of sanitary sewers, designed and constructed in accordance with applicable local, county, and state regulations as outlined in Part IV of the MDEQ Standards. On-site storm water detention facilities may be required.
18. **UNDERGROUND WIRING AND UTILITIES:** All local distribution lines for franchised utilities, including but not limited to telephones, electrical service, and cable television, shall be placed entirely underground throughout mobile home parks. Mainlines and perimeter feed lines located on a section or quarter section line may be above ground if they do not overlap the park. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.

19. **MAILBOX CLUSTERS:** The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing park road with a public road.
  
20. **MANUFACTURED HOUSING UNIT SALES:** The business of selling new or used manufactured housing as a commercial operation shall not be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing community may be sold by the resident, owner, licensed dealer or broker, provided the manufactured housing development management permits such sales activity.
  
21. **PROHIBITIONS:** A manufactured home shall only be used as a single-family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sites in a manufactured home community for sale or temporary sales office purposes.
  
22. **OPERATIONAL REQUIREMENTS**
  - a. **PERMITS:** A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. The Township Building Inspector shall communicate his/her recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing Division, Bureau of Construction Codes, Michigan Department of Consumer and Industry Services. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on-site, such as a management office or clubhouse, shall require a building permit prior to construction and a Certificate of Occupancy prior to use.

- b. **VIOLATIONS:** Whenever, upon inspection of any manufactured housing park, the Township Zoning Administrator finds that conditions or practices exist which violate provisions of this Section or other regulations referenced herein, the Township shall give notice in writing by certified mail to the Director of Michigan Manufactured Housing Commission, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.
  
- c. **INSPECTIONS:** The Township Building Inspector or other authorized Township agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this Section or other regulations referenced herein.

## **CHAPTER 8**

### **R-4 LAKE RESIDENTIAL DISTRICT**

#### **SECTION 8.01 DESCRIPTION AND PURPOSE**

This District is intended to preserve and enhance the water and scenic quality of the lakes and wildlife found in Hamilton Township, the investment in lake property, the quality of lakefront living, and the natural environment. These regulations recognize that many lots were created and dwellings constructed before any local regulations were applied and that, as a result, there are lakefront lots that exist at a higher density than would be permitted if those lands were currently developing.

#### **SECTION 8.02 PERMITTED USES**

Buildings and structures permitted in this District may be used for the following purposes only:

- A. Single family dwellings.
- B. Government or Municipally owned and operated parks, playgrounds and other recreational areas, out buildings.
- C. Pump houses, provided that they do not exceed sixteen (16) square feet in area, not to exceed three (3) feet in height above grade level, and not be located closer than three (3) feet to any side lot line.
- D. Home occupations in accordance with Section 16.13.
- E. Adult foster care family homes for six (6) persons or less.
- F. Day Care Home.
- G. Accessory structures customarily incidental to the above permitted uses.

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**SECTION 8.03 USES PERMITTED BY SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards and the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township Board are necessary to fulfill the purposes of this Ordinance.

- A. Churches.
- B. Private schools.
- C. Boat houses.
- D. Marinas.
- E. Bed and Breakfast facilities.
- F. Essential Services.
- G. Two-Family Dwellings.
- H. Other uses similar to permitted uses which are deemed compatible with the character and intent of the District.

**SECTION 8.04 DEVELOPMENT STANDARDS**

- A. **HEIGHT REGULATIONS.** No residential building or accessory structure shall exceed thirty-five (35) feet in height.
- B. **FRONT YARD.** There shall be a front yard of not less than thirty (30) feet measured from the front lot line. If the property is a waterfront lot, the setback shall be measured from the ordinary high water mark on the waterfront side of the property.
- C. **SIDE YARD.** For all buildings and structures, there shall be side yards of not less than ten (10) feet.
- D. **REAR YARD.** For all buildings and structures, there shall be a minimum rear yard of twenty-five (25) feet. For waterfront lots, the rear yard setback shall be measured

from the road right-of-way line.

- E. **MINIMUM LOT AREA.** For residential buildings and structures, no lot or building site may be less than twelve thousand (12,000) square feet.
- F. **MINIMUM LOT WIDTH.** The minimum lot width in this district, unless specified elsewhere, shall be eighty (80) feet measured at the building line.
- G. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be eighty (80) feet, except where said land is served by an access easement complying with the provisions of Section 16.10.
- H. No change shall be made in the material grade of property within the R-4 District without the submission of a site plan in accordance with Chapter 18.
- I. For lake front lots, one (1) dock per lot or one (1) dock for each fifty (50) lineal feet of water frontage may be permitted, provided that it is less than six (6) feet in width and less than thirty-five (35) feet in length, unless necessary to reach a water depth of six (6) feet. No more than four (4) watercraft shall be regularly moored at any dock serving a single residence, see Section 16.29.
- J. All development in R-2, R-4 and C-1 Districts, or in any District which abuts a public body of water, shall be in accordance with the provisions of Section 16.29, which regulates the use of lake front and riparian lots as access points for non-riparian property.



## **CHAPTER 9**

### **C-1 RESORT MIXED USE DISTRICT**

#### **SECTION 9.01 INTENT**

The intent of the C-1 Resort Mixed Use District is to provide for meaningful and realistic mix of residential and commercial utilization of appropriate portions of the settlements of Hamilton Township. The C-1 Resort Mixed Use District is intended to achieve the following objectives:

- A. Implement recommendations of the Master Plan.
- B. Provide a land use transition between the settlement areas and the more rural areas of the Township.
- C. Establish a complementary and integrated mixture of recreation, shopping, entertainment and residential uses, which create walkable communities with less reliance on automobile travel.
- D. Create district community centers and focal points in the Township.
- E. Integrate public gathering places.
- F. Promote long-term viability in the established settlement areas.

In the C-1 Resort Mixed Use Districts, the following provisions, regulations and restrictions shall apply:

#### **SECTION 9.02 PERMITTED USES**

- A. Single family dwellings.
- B. Accessory structures customarily incidental to the above permitted use.

**SECTION 9.03 USES PERMITTED BY A SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards and the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township Board are necessary to fulfill the purposes of this Ordinance.

- A. The following non-residential uses, containing not more than five thousand (5,000) square feet of gross floor area.
  - 1. Retail stores for the sale of such products as outdoor gear and equipment, marine equipment, bait shops, and watercraft.
  - 2. Food and beverage stores for the sale of groceries, fruit and meat; baked goods; dairy products; beverages and liquor.
  - 3. Food and beverage service establishments such as restaurants, dairy bars, outdoor cafes and taverns.
  - 4. Personal service establishments such as barber shops, beauty salons, and laundry pick-up.
  - 5. Resorts, motels, hotels, and marinas.
  - 6. Camps, recreational vehicle parks, and similar recreation enterprises with no individual building having a gross floor area greater than 5,000 square feet.
  - 7. Repair shops for bicycles, appliances, watercraft, small motors, and other such items but not motor vehicles.
  - 8. Gasoline service stations for both vehicles and watercraft.
- B. Government or Municipally owned buildings, post offices, libraries, fire stations, community centers, and maintenance buildings without outdoor storage.
- C. Essential public services, including buildings when operating requirements necessitate the location of said building at the specific site within the zoning district to serve the immediate vicinity. Outdoor storage yards shall not be permitted.

- D. Two family dwellings.
- E. Townhouses
- F. Multiple family dwellings (buildings containing more than two (2) dwellings.
- G. Bed and breakfast facilities.
- H. Business and professional offices.
- I. Private clubs and fraternal halls.
- J. Other uses similar to permitted uses which are deemed compatible with the character and intent of the district.

**SECTION 9.04 DEVELOPMENT STANDARDS FOR RESIDENTIAL DEVELOPMENT**

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

- A. **HEIGHT REGULATIONS.** No building or structure shall exceed thirty-five (35) feet in height or two and one half (2 ½) stories in height.
- B. **FRONT YARD.** There shall be a front yard of not less than thirty (30) feet from the front lot line.
- C. **SIDE YARD.** There shall be side yards as follows:
  - 1. For single and two family dwellings, side yards shall be not less than ten (10) feet.
  - 2. For multi-family dwellings and all other permitted uses, each side yard shall be not less than fifteen (15) feet.
- D. **REAR YARD.** There shall be a rear yard of not less than twenty-five (25) feet.
- E. **LOT AREA.** The minimum lot area for residential development in this District, unless specified elsewhere, shall be:

1. Eight Thousand (8,000) square feet for single family dwellings with public water and sewer services.
  2. Twelve Thousand (12,000) square feet for single family dwellings without public water and sewer services.
  3. Two family parcels shall require double the area required for single unit parcels.
  4. Multiple family developments must be connected to an approved water and sanitary sewer system and shall require five thousand (5,000) square feet per unit.
- F. **LOT WIDTH.** The minimum lot width for residential development in this District, unless specified elsewhere, shall be eighty (80) feet measured at the front building line.
- G. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be the same minimum applicable lot width, except where said land is served by an access easement complying with the provisions of Section 16.10.
- H. **MINIMUM FLOOR AREA.** Each single family and two family dwelling shall have the minimal usable floor area as is required in the "R-1" zoning district classification. Each unit in a two-family dwelling shall have minimum usable floor area of a single family dwelling. Each multi family dwelling shall have minimum usable floor area as follows: one bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine and sixty hundred (960) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.
- I. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses except detached single and two-family residential uses located on individual parcels in accordance with Chapter 18.

**SECTION 9.05 DEVELOPMENT STANDARDS FOR COMMERCIAL DEVELOPMENT**

- A. **HEIGHT.** No building or structure shall exceed thirty-five (35) feet in height.

- B. **FRONT YARD.** The front yard shall not be less than thirty (30) feet from the front lot line.
  
- C. **SIDE YARD.** Where the side of a lot in a C-1 District abuts any side of a residentially zoned district, each side yard shall not be less than twenty-five (25) feet. A ten (10) foot side yard shall be required when directly abutting other commercial uses or land included in a C-1 District.
  
- D. **REAR YARD.** Where a rear yard of a lot in a C-1 District abuts upon the side or rear yard of any residentially zoned district. There shall be a rear yard of not less than twenty-five (25) feet. In all other cases, there shall be a rear yard of not less than fifteen (15) feet.

**CHAPTER 10**

**C-2 GENERAL COMMERCIAL DISTRICT**

**SECTION 10.01 DESCRIPTION AND PURPOSE**

The intent of the "C-2" General Commercial District is to provide for a variety of commercial uses that cater to the convenience and comparison shopping needs of the residents of the entire Township and a limited area of the surrounding region beyond the Township's limits and therefore, are often located so as to serve passing and destination traffic. Commercial uses shall be located within designated areas along M-51 and other sites deemed suitable by the Township Planning Commission. Uses designated as "permitted" uses are considered to be smaller in scale and less obtrusive in nature. Uses designated as "special exception" are considered to be larger scale commercial activities that result in a more intensive land use that should be subject to the Township's review and consideration prior to development or have characteristics which may not make them suitable for all commercial locations within the Township. Commercial facilities should be compatible in design with adjacent commercial development and not pose a nuisance to nearby residential areas.

**SECTION 10.02 PERMITTED USES**

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

- A. Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as: groceries, meats, dairy products, alcoholic beverages, baked goods or other foods, ice cream, pharmaceuticals, dry goods, notions, hardware, books, stationery and school supplies, music and video sales and rental, flowers, hobby equipment, periodicals, shoes, sporting goods, small household articles, and tobacco products.
- B. Retail or service establishments which offer comparison goods for residents, such as: bicycle sales, jewelry stores, hobby shops, music stores, clothing and shoe stores, notions, bookstores, sporting goods stores, office supply stores, carpet stores, antique stores, furniture stores, household appliance stores, paint and wallpaper stores, auto equipment sales stores, and similar specialty retail stores.

- C. Establishments which perform services within a completely enclosed building for persons residing in nearby residential areas, such as: beauty and barbershops; watch, radio, television, computer, clothing and shoe repair; locksmiths; photo processing outlets.
- D. Office buildings and professional office uses, including medical and dental clinics or offices.
- E. Offices and showrooms of a plumber, electrician, building contractor, upholsterer, caterer, decorator or similar trade, subject to the following conditions:
  - 1. All services performed on the premises, including fabrication, repair, cleaning or other processing of goods, shall be sold at retail on the premises where produced.
  - 2. There shall be no outside storage of materials or goods on the premises.
- F. Schools for occupations, professional, or technical training, such as dance schools, music and voice schools, art studios, secretarial training, and similar schools.
- G. Funeral homes provided there is adequate assembly area for vehicles to be used in funeral processions and such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of the funeral home.
- H. Financial institutions, including banks, credit unions, and savings and loan associations. Drive-through facilities are permitted.
- I. Laundry and dry cleaning customer outlets, coin operated laundromats, self-serve dry cleaning establishments, and similar operations.
- J. Private service clubs, fraternal organizations, banquet halls, and meeting halls.
- K. Standard and carryout restaurants, bars and lounges.
- L. Assembly halls, and similar places of assembly.
- M. Private indoor recreation uses, such as bowling alleys, billiard halls, gymnasium or court sports facilities, tennis clubs, roller or ice skating rinks, personal fitness centers, and similar recreation uses.

- N. Accessory structures customarily incidental to the above permitted uses.

**SECTION 10.03 USES PERMITTED BY SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards of the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township Board are necessary to fulfill the purposes of this Ordinance.

- A. Automobile or car wash establishments.
- B. Open-front stores and outdoor sales.
- C. Veterinary offices and hospitals.
- D. Commercial kennels.
- E. Outdoor retail sales of plant material not grown on the site, lawn furniture, playground equipment, and home garden and landscaping supplies.
- F. Fast food, drive-in, and drive-through restaurants.
- G. Automobile gasoline filling and service stations, repair facilities (including body shops) and oil change or lubrication stations.
- H. Municipal, regional, state and federal buildings and uses not requiring outside storage of materials or vehicles.
- I. Essential services.
- J. Planned Unit Developments as defined and subject to the provisions of Chapter 13 of this Ordinance.
- K. Motor vehicle sales and service facility.
- L. Hotels and Motels.
- M. Churches.



- N. Off-Road Vehicle (ORV) track or park as defined and subject to the regulations set forth in Section 16.30.
- O. Other uses similar to permitted uses which are deemed compatible with the character and intent of the District.

**SECTION 10.04 DEVELOPMENT STANDARDS FOR COMMERCIAL USES**

- A. **SCREENING.** Side yards and rear yards adjoining any lot in a Residential Zoning District shall be screened by: (1) a compact hedge of deciduous or evergreen trees which have a minimum of six (6) feet in height and ten (10) feet in width after one growing season; or (2) a solid wall or tight board fence six (6) feet in height.
- B. **HEIGHT.** No building shall exceed forty (40) feet or three (3) stories in height.
- C. **FRONT YARDS.** On a street frontage between two (2) street intersections, each lot fronting on such street shall have a setback line between the lot line and the front building line as follows:
  - 1. Where all lots are unimproved, the front building line depth shall not be less than seventy seven (77) feet from the front lot line.
  - 2. Where one (1) or more lots are improved, the front yard depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. In no case shall it be less than fifty (50) feet from the front lot line
- D. **SIDE YARDS:**
  - 1. On each corner lot, there shall be a side yard abutting the street of not less than twenty-five (25) feet from the right of way line and the opposite side yard not abutting the street of not less than fifteen (15) feet.
  - 2. On a lot abutting any residential zoning district, there shall be a side yard abutting such district of not less than thirty (30) feet, which shall be screened as provided in paragraph A above.
  - 3. All interior lots shall have two (2) side yards, each having a width of not less than fifteen (15) feet.

- E. **REAR YARDS.** There shall be a rear yard on every lot, which rear yard shall have a minimum depth of not less than ten (10) percent of the depth of the lot for a one (1) story building, which depth shall be increased to fifteen (15) percent of the depth of the lot for a two (2) story building; provided however, that such rear yard need not exceed thirty (30) feet in depth. Accessory buildings not more than fifteen (15) feet high may be located in a rear yard; provided that the accessory buildings shall not occupy more than twenty-five (25) percent of the rear yard area, and be located no nearer to the side or rear lot line than five (5) feet, except rear yards adjoining any lot in a residential zoning District shall have a minimum rear yard of thirty (30) feet. Accessory buildings shall not be used for residential purposes.
- F. **LOT AREA.** The minimum lot area in this District shall be such as is reasonable for the contemplated use as recommended by the Hamilton Township Planning Commission and approved by the Hamilton Township Board.
- G. **BUILDING COVERAGE.** Not more than sixty (60) percent of any lot may be covered by buildings.
- H. **Off-STREET PARKING and LOADING.** Adequate off-street parking and loading space shall be provided in accordance with Chapter 17.
- I. **SIGNAGE.** Sign requirements will be in accordance with the provisions of Chapter 15 of this Ordinance.
- J. **SITE PLAN REVIEW.** A review will be prepared according to the provisions of Chapter 18. Site plans for permitted and Special Exception uses in the C-2 General Commercial District will be reviewed and approved by the Township Zoning Administrator. However, the Zoning Administrator may request review and approval by the Planning Commission on specific developments.

## **CHAPTER 11**

### **I - 1 INDUSTRIAL DISTRICT**

#### **SECTION 11.01 INTENDED PURPOSES**

The Industrial District is intended to provide sites for commercial and manufacturing activities employing relatively large numbers of people. Such use shall not create objectionable noise, vibration or odor and must not exceed any state law or regulations. Permitted commercial uses would be those which are most appropriately located as neighbors of industrial uses or which are necessary to serve the immediate needs of the people in these districts. Truck traffic and loading operations are expected to be characteristic of the districts.

#### **SECTION 11.02 PERMITTED USES**

In the Industrial District, buildings and premises may be used, and buildings may be erected or structurally altered for the following uses only:

1. Cleaners and laundries
2. Contractors office, showroom and yards.
3. Equipment repair
4. Fabrication, assembly, and packaging
5. Food processing
6. Grinding, milling, and production
7. Handling of materials and equipment
8. Motor vehicle services
9. Repair services
10. Warehousing, storage, and movers
11. Wholesaling
12. Accessory structures customarily incidental to the above permitted uses.

#### **SECTION 11.03 USES SUBJECT TO A SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards and the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township Board are necessary to fulfill the purposes of this Ordinance.

1. Freight terminals
2. Gasoline and petroleum storage
3. Ready mix concrete and asphalt plants
4. Mining operations
5. Slaughter houses
6. Adult regulated uses and sexually oriented businesses, subject to all the provisions of Section 16.24.
7. Other uses similar to permitted uses which are deemed compatible with the character and intent of the District.

#### **SECTION 11.04 DEVELOPMENT STANDARDS**

- A. **HEIGHT.** The maximum height of buildings and other structures erected or enlarged in this district shall be thirty-five (35) feet, except that such height may be increased to a maximum of sixty-five (65) feet, provided that for every foot of height in excess of thirty-five (35) feet, there shall be added to each yard requirement one (1) corresponding foot of width and depth.
- B. **FRONT YARDS.** There shall be a front yard of not less than seventy seven (77) feet from the front lot line on State Highways and County Primary Roads and fifty (50) feet from the front lot line on other roads in the Township.
- C. **SIDE YARDS.**
  1. On each interior lot, there shall be two (2) side yards, each side yard having a width of not less than twenty-five (25) feet, except as hereinafter provided in Subsection G hereof.
  2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having width of not less than fifty (50) feet and the side yard not abutting the street having a width of not less than twenty-five (25) feet, except as hereinafter provided in Subsection G hereof.

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- D. **REAR YARD.** There shall be a rear yard on each lot the depth of which shall be not less than fifty (50) feet, except as hereinafter provided in Subsection G hereof.
  - E. **LOT AREA.** The minimum lot area in this District shall be such as is reasonable for the contemplated use and recommended by the Hamilton Township Planning Commission and approved by the Hamilton Township Board.
  - F. **BUILDING COVERAGE.** Not more than fifty (50) percent of the area of any lot shall be occupied by buildings.
  - G. **LOTS ABUTTING RESIDENTIAL DISTRICTS.** Unless authorized as a variance no building or structure shall be erected closer than one hundred (100) feet to any residential district nor shall any parking area be closer than forty (40) feet to any residential district, which forty (40) foot area between such parking lot and such residential district shall be maintained as a green area entirely covered by grass, shrubs, and/or trees and effectively screened as provided in Section 10.04 A.
  - H. **SIGNAGE.** Sign requirements will be in accordance with the provisions of Chapter 15 of this Ordinance.
  - I. **SITE PLAN REVIEW.** A site plan review will be prepared according to the provisions of Chapter 18.

## **CHAPTER 12**

### **M - MANUFACTURING DISTRICT**

#### **Section 12.01 DESCRIPTION AND PURPOSE**

The Manufacturing District is designed to provide areas suitable for development as heavy industrial sites, and at the same time, protect such industrial developments from the intrusion of nonindustrial uses which impede the full utilization of properly located sites for industrial purposes. These uses would generally require a larger site of more than ten (10) acres and may be of such a nature that they may require isolation from many other kinds of uses. No use is permitted which violates any local, state or federal pollution control law or regulation.

#### **Section 12.02 PERMITTED USES**

A building or other structure may be erected, altered, or used, and a lot may be occupied or used for any of the following purposes:

1. All permitted uses in the Industrial District
2. Bulk storage
3. Handling and processing of construction materials
4. Manufacturing
5. Processing and handling of raw materials
6. Repair and service of heavy duty trucks and construction equipment
7. Stamping, steel fabricating
8. Accessory structures customarily incidental to the above permitted uses.

**Section 12.03 USES PERMITTED BY SPECIAL EXCEPTION USE PERMIT**

The following uses may be permitted by the Hamilton Township Board, subject to the conditions specified for each use in Chapter 16; the review and approval of the Standards and the imposition of special conditions as provided in Chapter 19, which in the opinion of the Hamilton Township Board are necessary to fulfill the purposes of this Ordinance.

1. Scrap processing and storage (junk yards)
2. Storage and handling of explosives, flammables, or other potentially dangerous materials
3. Adult regulated uses and sexually oriented businesses, subject to the provisions of Section 16.24
4. Other uses similar to permitted uses which are deemed compatible with the character and intent of the District.

**Section 12.04 DEVELOPMENT STANDARDS**

- A. **HEIGHT.** The maximum height of buildings and other structures erected or enlarged in this district shall be fifty (50) feet, except that such height may be increased to a maximum of sixty-five (65) feet, provided that for every foot of height in excess of fifty (50) feet, there shall be added to each yard requirement one (1) corresponding foot of width and depth.
- B. **FRONT YARDS.** There shall be a front yard on each lot, which shall be not less than seventy seven (77) feet as measured from the front lot line.
- C. **SIDE YARDS.**
  1. On each interior lot, there shall be two (2) side yards having an aggregate width of not less than one hundred (100) feet, neither side yard having a width of less than forty (40) feet, except as hereinafter provided in Subsection G hereof.
  2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than fifty (50) feet and the side yard not abutting the street having a width of not less than forty (40) feet, except as hereinafter

provided in Subsection G hereof.

- D. **REAR YARDS.** There shall be a rear yard on each lot the depth of which shall be not less than fifty (50) feet, except as hereinafter provided in Subsection G hereof.
- E. **LOT AREA.** The minimum lot area in this District shall be such as is reasonable for the contemplated use and recommended by the Hamilton Township Planning Commission and approved by the Hamilton Township Board.
- F. **BUILDING COVERAGES.** Not more than fifty (50) percent of any lot shall be occupied by building.
- G. **LOTS ABUTTING RESIDENTIAL DISTRICTS.** Unless authorized as a variance no building or structure shall be erected closer than two hundred (200) feet to any residential district, nor shall any parking area be closer than forty (40) feet to any residential district. Said forty (40) foot area between such parking lot and such residential district shall be maintained as a green area entirely covered by grass, shrubs, and/or trees and effectively screened as provided in Section 10.04 A.
- H. Any open storage or repair yards shall be entirely enclosed with a fence at least eight (8) feet high. The material and construction of this fence shall be approved by the Planning Commission.
- I. **SIGNAGE.** Sign requirements will be in accordance with the provisions of Chapter 15 of this Ordinance.
- J. **SITE PLAN REVIEW.** A site plan review will be prepared according to the provisions of Chapter 18.



## **CHAPTER 13**

### **PLANNED UNIT DEVELOPMENT**

#### **SECTION 13.01 DESCRIPTION AND PURPOSE**

To permit, through the special use permit procedure, planned unit developments designed to encourage creativity and flexibility in the use and design of structures and land in Hamilton Township.

The Planned Unit Development (PUD) is intended to accomplish the following:

- A. Result in a more efficient pattern of development, with shorter streets and utility networks.
- B. Preserve existing natural assets, such as stands of trees, flood plains, lake frontage, scenic vistas and other open spaces.
- C. Accomplish a more desirable residential environmental plan than would be possible through the strict application of the minimum requirements of the Zoning Ordinance.
- D. Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all units.
- E. Provide for supportive mix of land uses and amenities such as day care, office, neighborhood retail, and similar uses, which in the opinion of the Planning Commission, are in conformance with the goals and objectives of the master plan and will enhance the residential stability and economic base of Hamilton Township through the application of a special exception use permit.

**SECTION 13.02 GENERAL REQUIREMENTS:**

**A. MINIMUM PROJECT AREA.**

<u>Zoning District</u>	<u>Acreage</u>
AG Agricultural	10
R-1 Low Density Rural Residential	10
R-2 Medium Density	10

- B. The development must have direct access to a publicly maintained road.
- C. The principal permitted use shall be residential development, consistent with the zoning district of the proposed "PUD".
- D. Each principal building in the proposed "PUD" must be connected to water and sewer facilities that are approved by the Van Buren County Health Department.
- E. Each site shall be provided with adequate storm drainage. Open drainage courses and storm retention ponds shall be reviewed and may be permitted by the Van Buren County Drain Commissioner.
- F. All utilities including telephone, electric, and cable, within the "PUD", shall be located underground.
- G. Common Open Space
1. Common open space shall not include proposed street right-of-ways, open parking area or commercial areas. Common open space may contain accessory structures, paved bicycle and/or walking paths, agricultural uses, wetlands, improvements necessary or desirable for religious, educational, non-commercial, recreational or cultural uses.
  2. The area of common open space within a "PUD" project shall not be less than fifty percent (50%) of the total land area of the project. However, when a water or wetland feature exists on the subject site, water and/or wetlands shall not account for more than fifty percent (50%) of the required open space.

3. Open spaces shall be conveniently located in relation to dwelling units.
4. Open spaces shall have reasonable, minimum dimensions which are usable for the functions intended and which will be maintainable. Open space designs which emphasize perimeter walking paths as the primary open space feature are not permitted.
5. All public areas and facilities which are to be dedicated to a public agency shall be so dedicated prior to approval of a final development plan, unless a binding agreement is provided in lieu of that dedication.
6. Legal instruments setting forth the manner of permanent maintenance of common open space and facilities shall be submitted to the township attorney for review before the township board approves the final development plan. Such instruments may include dedication to permanent conservation easements or homeowner associations.
7. Where a homeowner association is to be used to maintain common open spaces and facilities, the developer shall file a declaration of covenants and restrictions that will govern the homeowners association. The provisions shall include, but shall not be limited to the following:
  - a. The homeowners association shall be established before any dwelling in the "PUD" is sold;
  - b. Membership in the homeowners association shall be mandatory for each dwelling unit buyer and for any successive buyer and shall be so specified in the covenants;
  - c. Restrictions shall be permanent;
  - d. The homeowners association shall be made responsible for liability; and dwelling owners shall pay their prorated share of the costs and this requirement shall be specified in the covenants.

- e. The parking requirements set forth in Chapter 17 shall apply, except the number of spaces may be reduced, if approved by the Hamilton Township Planning Commission, as part of the final development plan. Such reductions shall be based upon specific findings.

### **SECTION 13.03 INFORMAL PRELIMINARY CONFERENCES**

- A. **INFORMAL PRELIMINARY CONFERENCES:** Prior to a formal application, the applicant is required to have two (2) informal preliminary conferences; one with the Township Zoning Administrator and the Township Supervisor, the other with the Township Planning Commission. The purpose of the conferences is to discuss the proposed development, review procedures, requirements and standards of the Township. The applicant is encouraged to present concept plans, site data and other information that will explain the proposed development statements made in these conferences shall not be legally binding.
  
- B. **APPLICATION:** Following the preliminary conferences that applicant shall make an application for a "PUD" special use permit along with ten (10) sets of the preliminary development plans and the application fee (as set by resolution of the Township Board of Trustees) to the Township Zoning Administrator. The application shall, at a minimum, contain the following:
  - 1. The applicant's name, address, and phone number.
  - 2. Proof that the applicant is the owner of the property or has a legal or financial interest in the property (such as a sales agreement).
  - 3. The name and address of all persons, firms or corporations having a legal or equitable interest in the property.
  - 4. The address of the property.
  - 5. The legal description and parcel identification number of the property.
  - 6. Project descriptions.

7. Size of the property in acres.
8. The signature of the applicant and the property owner.

Upon receipt of the completed application, application fee and preliminary development plan, the Township Zoning Administrator shall forward copies of the plan and the application form to the township engineer, planner and any other persons or agencies deemed appropriate. The balance of the plans and the original application form shall be distributed to the Planning Commission to allow for their review of the proposed "PUD".

**C. PRELIMINARY DEVELOPMENT PLAN:** The preliminary development plan shall contain the following:

1. The date, north arrow, and scale, which shall not be smaller than 1 inch equals 50 feet.
2. The location sketch of the site in relation to the surrounding area. This sketch shall label the land uses on all adjacent property.
3. The legal description of the property.
4. The parcel size in acres or square feet.
5. All lot and property lines, with dimensions.
6. The location of all existing and proposed structures on the site.
7. The location of all existing and proposed streets, driveways, alleys, parking areas and easements, including the total number of parking spaces, parking calculations and typical dimensions.
8. The size, location and proposed use of all areas devoted to open space.
9. The general landscape concept, showing tree masses to be preserved, added buffer areas, screening, and similar features.

10. All wetland areas, flood plain boundaries and bodies of water.
  11. Existing topographical contours at a minimum of two foot intervals. General layout of all proposed utilities including: water, sewer, telephone, gas and electrical services.
  12. The applicant shall also provide a written statement describing each of the following:
    - a. The general character of the "PUD".
    - b. The gross residential densities and percent of the proposed "PUD" area to be covered by buildings and parking areas.
    - c. The acres allocated to each use.
    - d. The method and responsibility for maintenance of open areas, private streets, recreational amenities and parking areas.
    - e. All environmentally sensitive areas.
- D. **PARALLEL PLAN:** The applicant shall also prepare a parallel design plan for the project consistent with the requirements of the respective zoning district in which it is located. A bonus of up to ten (10) percent may be granted based on the quality of design and preservation of open space.
1. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality (MDEQ).
  2. The Planning Commission shall review the design to determine the number of lots that could feasibly be constructed following the parallel design. This number shall set the maximum density number of dwelling units for the site allowable under the "PUD" provisions of this Ordinance.
  3. However, riparian lots shall not be reduced in size from the dimensions listed unless granted a variance by the Township Zoning Board of Appeals.

4. After reviewing the preliminary, the Planning Commission shall transmit its recommendation to the applicant, along with any suggested changes or modifications.

**E. IMPACT ASSESSMENT.**

1. The Planning Commission may require the applicant to prepare and submit an impact assessment. When required, preparation of the impact assessment shall be the responsibility of the applicant. The applicant shall use qualified professional personnel to complete the impact assessment. The impact assessment shall describe in detail the effect and impact that the proposed "PUD" will have, or may have, upon or with respect to any of the following:
  - a. Streams, rivers, wetlands, and the quality of surface and ground waters.
  - b. Public utilities.
  - c. Displacement of people and other land uses by the proposed use.
  - d. Character of the area.
  - e. Traffic.
  - f. Wildlife.
2. The impact assessment shall, if required by the Planning Commission, include statements and comments from the following public agencies or officials concerning any aspects of the proposed "PUD" within their respective responsibilities and jurisdictions:
  - a. Township Fire Department.
  - b. School districts represented within the Township.
  - c. The Department of Natural Resources.
  - d. Van Buren County:

Sheriff's Department  
Health Department  
Road Commission  
Drain Commissioner

- e. Such other agencies as determined appropriate by the Planning Commission.
3. The Planning Commission and Township Board of Trustees shall consider the criteria listed below in their evaluation of the impact assessment. Failure to comply with any of the criteria shall be sufficient justification to deny approval.

**SECTION 13.04 PUBLIC HEARING AND PRELIMINARY APPROVAL PROCEDURES**

- A. Within forty-five (45) days after receipt of the completed application and fee the Planning Commission shall schedule a public hearing on the request.
- B. Within sixty (60) days after the public hearing the Planning Commission shall recommend to the Township Board of Trustees, one of the following:
  - 1. Approval of the preliminary plan, or
  - 2. Approval of the preliminary plan subject to certain specified conditions, or
  - 3. Denial of the preliminary plan.
- C. In making a recommendation to approve the "PUD" the Planning Commission must find that the proposed "PUD" meets the following standards:
  - 1. Granting the "PUD" special exception use permit will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
  - 2. The "PUD" will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon



surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the "PUD" as approved.

3. The "PUD" will be compatible with the Master Plan of the Township and consistent with the intent and purpose of this Chapter.
4. The "PUD" will not result in significant adverse effects upon nearby or adjacent lands, and will not change the essential character of the surrounding area.
5. The "PUD" is designed and laid out to preserve natural resources and natural features, to the fullest extent possible.
6. Within sixty (60) days after receipt of the Planning Commission's recommendation the Township Board of Trustees shall either:
  - a. Approve the preliminary plan
  - b. Deny approval of the preliminary plan
  - c. Refer the preliminary plan back to the Township Planning Commission for further review.

### **SECTION 13.05 FINAL APPROVAL PROCEDURES**

- A. After the preliminary plan has been approved by the Township Board of Trustees the developer shall prepare the final development plan. The applicant shall submit ten (10) sets of the final development plans to the Township Zoning Administrator. The Zoning Administrator shall forward copies of the final plan to the township fire chief, engineer, planner and others deemed appropriate. The balance of the plans shall be turned over to the zoning administrator for distribution to the Planning Commission for their review.
- B. The final development plan shall include all of the information required on the preliminary development plan and all additional information requested by the Planning Commission.
- C. The final plan shall incorporate all recommendations of the Planning Commission pursuant to the Commission's review of the preliminary plan, or

shall indicate how the final plan fails to incorporate the Commission's recommendations. The plan shall be certified by a licensed architect, registered surveyor or professional engineer. In addition, final plan shall include the following:

1. Architectural renderings or specific statements as to the type and style of construction to be used in the proposed buildings along with the height and area of each building.
  2. Projected time for completion of the entire project.
  3. Proposed phasing, if any, and the projected time for completion of each phase.
  4. Landscaping plans.
  5. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon.
  6. Engineering plans showing, as necessary, water, waste disposal, drainage, exterior and street lighting, electricity, telephone and natural gas installations, and the nature and extent of earthwork required for site preparation and development.
  7. Any other information required by the Planning Commission to assist in the evaluation of the proposed "PUD".
- D. Within forty-five days of the receipt of the complete set of the final plans the Planning Commission shall review the plans for their completeness, act upon the plans and send their recommendation to the Township Board of Trustees.
- E. Within sixty days of the Township Board of Trustees receipt of the Planning Commission's recommendation, the Township Board shall review the final development plans and recommendation submitted by the Planning Commission. In making its decisions, the Township Board shall determine:
1. Whether the final development plan complies with the standards, conditions, and requirements of this Chapter.

2. Whether the "PUD" promotes the intent and purposes of this Chapter.
  3. Whether the "PUD" will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project.
  4. Whether the "PUD" will be consistent with the public health, safety, and welfare needs of the township.
- F. Reasonable conditions may be imposed upon the Township Board of Trustees approval of a "PUD" special exception use permit subject to the standards listed in Chapter 19.

### **SECTION 13.06 APPLICATION FEE**

The Township Board of Trustees shall by resolution, establish a fee schedule for special use permit applications under this Ordinance.

### **SECTION 13.07 CONSTRUCTION COMPLIANCE**

Any permit issued for construction pursuant to the "PUD" special use permit shall be valid only so long as there is compliance with the final development plan as accepted by the Township Board of Trustees.

### **SECTION 13.08 AMENDMENTS AND REVISIONS**

- A. A developer may request a change in an approved final development plan. Except for those changes determined to be minor, as provided below, changes to an approved final development plan or any conditions imposed on a "PUD" special exception use permit shall be reviewed and approved, approved with conditions, or denied by the Planning Commission and the Township Board of Trustees pursuant to the procedures provided by this Chapter for an original request.
- B. Minor changes to a final development plan may be approved by the Planning Commission without review and approval of the Township Board of Trustees.

“Minor changes” are limited to the following:

1. Changes in residential floor area of not more than five percent (5%) provided that there is no increase in the number of units.
2. The relocation of building footprints by not more than three (3) feet, unless a specific setback or separation distance is imposed as a condition of the “PUD” approval.
3. An increase in area portions of the site designated as “not to be disturbed”.
4. The substitution of plan materials by similar types of landscaping on a 1-to-1 ratio, as determined by the Zoning Administrator.
5. Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the “PUD” which are not significant in relation to the “PUD” and would not have any significant adverse effect on adjacent or nearby lands or the public health, safety, or welfare.

### **SECTION 13.09 EXPIRATION AND EXTENSION OF APPROVAL PERIOD**

The approval of the final development plan for a planned unit development shall be for a period not to exceed two (2) years, from the date of the Township Board of Trustees final approval date, to allow for preparation and recording of the required subdivision plat and development of the project. If no construction has begun within two (2) years after the approval is granted, the approved final development plan shall be void. The Township Board of Trustees may require a new final development plan to be reviewed in accordance with the requirements for the original application. An extension of the time limit may be approved if the Township Board of Trustees finds that such extension or modification is not in conflict with the public interest.

No zoning amendment passed during the time period granted for the approval of the final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

## **CHAPTER 14**

### **OPEN SPACE PRESERVATION OVERLAY**

#### **SECTION 14.01 PURPOSE AND INTENT**

It is the intent of this Chapter to offer an alternative to traditional subdivisions through the use of Planned Unit Development legislation, as authorized by Section 16(c) of the Township Rural Zoning Act (Public Act 184 of 1943, as amended) and with the Open Space Preservation Act (P.A. 177 of 2001) for the purpose of:

- A. Encouraging the use of Township land in accordance with its character and adaptability;
- B. Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
- C. Providing recreational facilities within a reasonable distance of all residents of the Open Space Community development;
- D. Allowing innovation and greater flexibility in the design of residential developments;
- E. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- F. Ensuring compatibility of design and use between neighboring properties; and,
- G. Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This Chapter is not intended as a device for circumventing the zoning regulations of the Township, the standards set forth therein, nor the planning concepts upon which the Zoning Ordinance has been based.

These regulations are intended to result in a specific development substantially consistent with Zoning Ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair, and consistent decision-making.

The open space community district is established as an overlay district applicable to the AG and R-1 Districts.

## **SECTION 14.02 SCOPE**

For the purposes of this Chapter, an “open space community” is defined as a predominately single-family residential development in which dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development.

## **SECTION 14.03 ELIGIBILITY CRITERIA**

To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:

- A. **RECOGNIZABLE BENEFITS.** An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the Township. The benefits can be provided through site design elements in excess of the requirements of this Ordinance, such as high quality architectural design, extensive landscaping, provide transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.
- B. **MINIMUM PROJECT SIZE.** The minimum size of an open space community development shall be ten (10) acres of contiguous land.
- C. **OPEN SPACE.** The proposed development shall provide at least one of the following open space benefits:

1. **SIGNIFICANT NATURAL ASSETS.** The site contains significant natural assets such as land used in agricultural production, woodlands, individual trees over twelve (12) inch diameter, measured at breast height, rolling topography with grades exceeding 15%, significant views, natural drainage ways, water bodies, flood plains, regulated or non-regulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the Township to preserve and which might be negatively impacted by conventional residential development. This determination shall be made by the Planning Commission after review of a Site Analysis Plan, prepared by the applicant, that inventories these features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the Open Space Community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
  
  2. **RECREATION FACILITIES.** If the site lacks natural features, it can qualify if the development will preserve an existing recreation facility or provide usable recreation facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance residential development.
  
  3. **CREATION OF NATURAL FEATURE.** If the site lacks existing natural features, it can also qualify if the development will create significant woodland features. The creation of significant woodland features shall be considered providing perimeter buffer plantings and interior street tree plantings at a rate double (2 x) what is required by this Ordinance.
- D. **GUARANTEE OF OPEN SPACE.** The applicant shall guarantee to the satisfaction of the Township Board that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space community plan.

- E. **COHESIVE DEVELOPMENT.** The proposed development shall be designed to create a cohesive community development through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the Open Space Community.
  
- F. **UNIFIED CONTROL.** The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
  
- G. **DENSITY.** The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relation to the use or uses otherwise permitted by this Ordinance, and shall not place an unreasonable impact to the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. The Planning Commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socio-economic impact resulting from the proposed open space community. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The Planning Commission may require that the applicant prepare a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination (such as an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the open space community.
  
- H. **TOWNSHIP MASTER PLAN.** The proposed development shall be consistent with and further the implementation of the Township Master Plan.



**SECTION 14.04 PROJECT DESIGN STANDARDS.**

A proposed open space community shall comply with the following project design standards:

- A. **LOCATION.** An open space community may be approved within any of the following zoning districts: AG and R-1.
- B. **PERMITTED USES.** An open space community is generally restricted to single family detached or attached residential dwellings.
- C. **DWELLING DENSITY.** The number of dwelling units allowable within an open space community project shall be determined through preparation of a parallel plan.
  - 1. The applicant shall prepare, and present to the Planning Commission for review, a parallel design for the project that is consistent with State, County and Township requirements and design criteria for a tentative preliminary plat. The parallel plan shall meet all standards for lot size (as shown in paragraph B), lot width and setbacks as normally required, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality.
  - 2. The parallel plan shall be prepared with the following minimum lot areas. The parallel plan is only used to determine allowable density for an open space community project. The following parallel plan minimum lot areas incorporate a density bonus for qualifying open space community projects that meet all requirements of this ordinance:

Underlying Zoning District	Parallel Plan Minimum Lot Size (square feet)	Parallel Plan Minimum Width (lineal feet)
AG	38,000	120'
R-1	26,000	80'

3. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed and be economically viable following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the open space community project.

D. **BASE ZONING REGULATIONS.** Unless specifically waived or modified by the Planning Commission, all Zoning Ordinance requirements for the underlying zoning district, except for minimum lot area and lot width, and other Township regulations shall remain in full force.

E. **REGULATORY FLEXIBILITY.**

1. ***To encourage flexibility and creativity consistent with the open space community concept, the Planning Commission may grant specific departures from the requirements of the Zoning Ordinance as a part of the approval process for the following:***

- a. Yard, lot width, and bulk standards may be modified, provided that such modification results in enhanced buffering from adjacent land uses or public right-of-ways, or preservation of natural features.
- b. Any modification to the Natural River District standards must also be approved by the Michigan Department of Environmental Quality, if required.

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 of the Zoning Board of Appeals. No part of an open space community plan may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the Open Space Community, provided such variance does not involve alterations to open space areas as shown on the approved Open Space Community site plan.

**F. OPEN SPACE REQUIREMENTS.**

- 1. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway or, an approved land improvement shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Grading in the open space shall be minimal, with the intent to preserve existing topography.**
2. An open space community shall maintain a minimum of fifty percent (50%) of the gross area of the site as dedicated open space held in common ownership. A minimum of ten percent (10%) of the open space shall be upland area that is accessible to all residents of the Open Space Community.
3. **AREAS NOT CONSIDERED OPEN SPACE.** The following land areas are not included as dedicated open space for the purposes of this Chapter:
  - a. The area of any street right-of-way proposed to be dedicated to the public. This provision shall not preclude the future dedication of a private road easement to a public road agency.
  - b. Any portion of the project used for commercial purposes.
  - c. The required setbacks surrounding a residential structure that is not located on an individual lot or condominium site.
4. The common open space may be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development. The open space along the exterior public roads shall generally have a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition.
5. Connections with adjacent open space, public land or existing or planned

pedestrian/bike paths may be required by the Planning Commission.

6. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:
  - a. Recorded deed restrictions,
  - b. Covenants that run perpetually with the land, or
  - c. A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
  
7. Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:
  - a. Indicate the proposed allowable use(s) of the dedicated open space. The Planning Commission may require the inclusion of open space restrictions that prohibit the following:
    - i. Dumping or storing of any material or refuse;
    - ii. Activity that may cause risk of soil erosion or threaten any living plant material;
    - iii. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
    - iv. Use of motorized off road vehicles;
    - v. Cutting, filling or removal of vegetation from wetland areas;
    - vi. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.
  
  - b. Require that the dedicated open space be maintained by parties

who have an ownership interest in the open space.

- c. Provide standards for scheduled maintenance of the open space.
- d. Provide for maintenance to be undertaken by Hamilton Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

8. **CONTINUING OBLIGATION.** The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Open space may include golf course area, provided that it forever remains outdoor recreation or natural undeveloped land.

9. **ALLOWABLE STRUCTURES.** Any structure(s) or building(s) accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the required open space area.

G. **TRANSITION AREAS.** Where the Open Space Community abuts a single family residential district, the Planning Commission may require a transition area. Grading within the transition area shall be minimal unless needed to provide effective buffering or accommodate drainage. If the grade change adjacent to single family residential is to be varied by more than three (3) feet, the site plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. The Planning Commission may review the proposed transition area to ensure compatibility. The Planning Commission may require that the transition area consist of one or more of the following:

- 1. A row of single-family lots or condominium sites similar to adjacent single family development in terms of density, lot area, lot width, setbacks and building spacing.
- 2. Woodlands, natural features or a landscaped greenbelt sufficient to provide an obscuring effect.

3. Open or recreation space.
  4. Significant changes in topography, which provide an effective buffer.
- H. **ACCESS.** Direct access onto a County road or State highway shall be required to an open space community. The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line).
- I. **INTERNAL ROADS.** Internal roads within an open space community may be public or private.
1. Construction of private roads as a means of providing access and circulation is permitted. Private roadways within an open space community must meet the design requirements of the Township. The Planning Commission may modify these requirements, if all of the following findings are made:
    - a. There is no potential for the road to connect with abutting land or be extended to serve additional land in the future.
    - b. Significant natural features such as mature trees, natural slopes, wetlands or other water bodies would be preserved through allowing a modification to the Private Road standards.
  2. Where private roads are developed, a maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, shall be reviewed and approved by the Planning Commission.
- J. **NATURAL FEATURES.** The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. The Planning Commission may also require a minimum twenty five (25) foot wide undisturbed open space setback from the edge of any, lake, pond, river, stream or wetland; provided that the Planning Commission may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment

of the site's natural amenities within the setback.

#### **SECTION 14.06 PROJECT STANDARDS**

In considering any application for approval of an open space community site plan, the Planning Commission shall make their determinations on the basis of the standards for site plan approval by the following standards:

- A. **COMPLIANCE WITH THE OPEN SPACE COMMUNITY CONCEPT.** The overall design and land uses proposed in connection with an open space community shall be consistent with the intent of the open space community concept, as well as with specific design standards set forth herein.
  
- B. **COMPATIBILITY WITH ADJACENT USES.** The proposed open space community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
  - 1. The bulk, placement, and materials of construction of proposed structures.
  - 2. Pedestrian and vehicular circulation.
  - 3. The location and screening of vehicular use or parking areas.
  - 4. The provision of landscaping and other site amenities.
  
- C. **IMPACT OF TRAFFIC.** The open space community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
  
- D. **PROTECTION OF NATURAL ENVIRONMENT.** The proposed open space community shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
  
- E. **COMPLIANCE WITH APPLICABLE REGULATIONS.** The proposed open space community shall comply with all applicable federal, state, and local regulations.

- F. **TOWNSHIP MASTER PLAN.** The proposed open space community shall be consistent with and further the implementation of the Township Master Plan.
  
- G. **CONDITIONS.** Reasonable conditions may be required with the special approval of an Open Space Community, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner, and further the implementation of the Township Master Plan. Conditions imposed shall be designed to protect natural resources, and the public health, safety and welfare of individuals in the project, those immediately adjacent and the community as a whole; shall be reasonable related to the purposes affected by the Open Space Community; shall be necessary to meet the intent and purpose of this Ordinance and implement the Township Master Plan; and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved open space site plan.

#### **SECTION 14.07 GENERAL REQUIREMENTS**

- A. **GENERAL APPLICATION REQUIREMENTS.** The application for approval of an open space community shall be made according to procedures and guidelines adopted by resolution of the Township Board. The required materials shall be submitted to the Township Zoning Administrator with all required fees.
  
- B. **EFFECT OF APPROVAL.** Approval of an open space community proposal shall not require, nor shall it be construed as an amendment to the Zoning Ordinance. All improvements and uses of the site shall be in conformity with the approved open space community site plan and comply fully with any conditions.
  
- C. **RECORDING OF ACTION.** The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved open space community plan unless an amendment is adopted by the Township. In addition, all deed restrictions and



easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the Township.

- D. **LAND USE PERMIT.** Following final approval of the open space community site plan and final approval of the engineering plans, a land use permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable Township, County, State or Federal permits.
- E. **INITIATION OF CONSTRUCTION.** If construction has not commenced within twenty-four (24) months of final approval, all Township approvals become null and void. The applicant may apply in writing to the Township Board for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.
- F. **CONTINUING ADHERENCE TO PLAN.** Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of the Zoning Ordinance and shall be subject to the penalties for same.
- G. **PERFORMANCE GUARANTEE.** The Township Board may require that a performance guarantee be deposited with the Township to insure completion of improvements.

#### **SECTION 14.08 SCHEDULED PHASING**

- A. **SCHEDULED PHASING.** When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the open space community and the residents of the surrounding area.
- B. **TIMING OF PHASES.** Each phase of the project shall be commenced within twenty-four (24) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void.

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## CHAPTER 15

### SIGNS

#### SECTION 15.01 PURPOSE AND INTENT

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection. In addition, it is the intent of this Ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the Township.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited and that signs in residential districts be limited to those directly related to activities on the premises.

#### SECTION 15.02 COMPUTATION OF SIGN AREA

For the purposes of this Ordinance, the total area of a sign shall be expressed in square feet and shall be computed as follows:

- A. **SINGLE-FACE SIGN.** The total area of a single-face sign shall be computed as the number of square feet within any single or combination of geometric shapes -- such as a square, rectangle, triangle or circle -- encompassing the extreme limits of an individual letter(s), word(s), message(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.

- B. **DOUBLE-FACE SIGNS:** For double-face signs having two (2) faces of equal size arranged and/or positioned back to back, parallel to each other, with no more than a two (2) foot space between the two faces; the area of the sign shall be computed as one-half (1/2) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.
- C. **THREE-DIMENSIONAL SIGNS.** For signs that are designed as a three dimensioned geometric form such as a sphere, cone, cylinder, or cube; the area shall be computed as one half (1/2) the total surface of the geometric form.

**SECTION 15.03 PERMIT REQUIRED FOR SIGNS**

- A. **SIGN ERECTION PERMIT:** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign unless a permit shall have been first obtained from the Zoning Administrator, except as provided in Section 15.05 (Signs Exempt from Permit Requirement). Any sign that makes use of electricity, shall, in addition to a sign permit, require an electrical permit, regardless of size.
- B. **SIGN MAINTENANCE OR CHANGE OF MESSAGE:** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.
- C. **PLANNING COMMISSION APPROVAL:** All subdivision/development signs, time/date/or temperature signs, or any type of sign not explicitly defined herein, must be approved by the Hamilton Township Planning Commission before a permit shall be issued.
- D. **PERMIT APPLICATIONS:** Applications for sign permits shall be made upon forms provided by the Building Official for this purpose and shall contain the following information:
  - 1. Name, address and phone number of applicant.

2. Location of the building, structure, or lot on which the sign is to be attached or erected.
  3. Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
  4. Position of the sign in relation to nearby buildings, structures, signs, property lines, and rights-of-way, existing or proposed.
  5. Zoning district in which the sign is to be located.
  6. Two (2) copies of the sign plans and specifications for construction, and attachment to the building or ground. The sign plans shall include all pertinent data including highest point, low point clearance, face outline and total face area with method of calculation. When public safety so requires, the specifications shall include the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
  7. Name and address of the sign erector.
  8. Such other information as the Building Official may require to show full compliance with this and all other applicable laws of the Township and the State of Michigan.
- E. **SIGN ERECTION PERMIT EXPIRATION.** A sign permit shall become null and void if the work for which the permit was issued is not completed within 90 days of the date of issue.
- F. **COMPLIANCE CERTIFICATION:** All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this Chapter, shall be issued a Zoning Permit Certificate. The Zoning Administrator shall cause existing signs to be inspected if deemed necessary by him to determine continuation of compliance with the provisions of this Chapter.

**SECTION 15.04 GENERAL SIGN PROVISIONS**

- A. **PUBLIC RIGHTS-OF-WAY:** No sign (or any pole or support cable of any nature) 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, unless otherwise authorized in this Ordinance.
- B. **SIGN HEIGHTS:** The highest point of any sign shall not exceed twenty-five (25) feet above the ground or grade level.
- C. **TRAFFIC INTERFERENCE.** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
- D. **CLEAR CORNER VISION:** No sign above a height of thirty (30) inches shall be located within, project into, or overhang the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection, unless visual under clearance can be assured on the plans.
- E. **PROXIMITY TO ELECTRICAL CONDUCTORS:** No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.
- F. **ILLUMINATION:** All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall light from an illuminated sign shine on adjacent property that is used for residential purposes.
- G. **FIRE ESCAPES:** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.

- H. **WALL SIGNS:** No wall sign shall project beyond or overhang the wall, or any permanent architectural feature and shall not project above or beyond the highest point of the roof or parapet.
- I. **FREESTANDING SIGNS:** With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
- J. **LIABILITY INSURANCE:** If the height of a proposed or existing sign is such that if it fell or could fall into the public right-of-way or adjacent property, the owner of said sign shall carry sufficient liability insurance to protect the public and adjacent property owners from damage and injury from the fallen sign.

#### **SECTION 15.05 SIGNS EXEMPT FROM PERMIT REQUIREMENTS**

No sign permit is required for signs listed below. Such exemptions, however, shall not be construed to relieve the owner for its proper location, erection, and maintenance.

- A. **GOVERNMENT SIGNS.** Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, or regulatory signs.
- B. **FLAGS:** Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- C. **ADDRESS SIGNS:** Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- D. **STREET SIGNS:** Signs erected by the township, county, state, or federal government for street names, traffic control, or direction and information.
- E. **PRIVATE TRAFFIC SIGNS:** Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and bear no advertising matter.

- F. **HANDICAPPED SIGNS:** Not exceeding four (4) square feet each and bearing no advertising matter.
- G. **ARCHITECTURAL FEATURES/ARTWORK:** Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
- H. **SMALL ACCESSORY SIGNS:** Any accessory sign erected on a premise which is no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals.
- I. **TEMPORARY SIGNS, BANNERS, FLAGS:** Temporary signs, not specifically regulated in any other section of this Ordinance, including but not limited to: political or campaign signs, real estate signs, signs for special events or activities, air or gas filled signs, banners, flags, and the like shall be permitted subject to the following conditions:
  - 1. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any street right-of-way.
  - 2. All temporary signs must be removed within fourteen (14) days of the conclusion of the event, activity, election, sale, etc., for which the temporary sign is displayed.
  - 3. The total area and height of temporary signage shall not exceed the following standards:
    - a. In residential districts, temporary signage shall be limited to six (6) square feet in area and six (6) feet in height.
    - b. In all commercial and industrial districts, temporary signage shall not exceed thirty-two (32) square feet of total sign area per side or a height of eight (8) feet.
- J. Seasonal produce and farm product stands.

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**SECTION 15.06 SIGNS PROHIBITED THROUGHOUT THE TOWNSHIP**

The following signs are prohibited throughout the Township, notwithstanding anything to the contrary in this Chapter.

- A. **UNSAFE SIGNS:** Any sign which is structurally or electrically unsafe.
- B. **UTILITY POLES AND LANDSCAPING:** Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by the township, county, state, or federal government or a public transit agency.
- C. **BUSINESS NO LONGER EXISTING (ABANDONED SIGNS):** Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
- D. **SIGN STRUCTURE WITHOUT SIGN:** Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to prevent the changing of the message of a sign.
- E. **OTHER SIGNS PROHIBITED:** Other signs not expressly permitted shall be prohibited.

**SECTION 15.07 DISTRICT REGULATIONS.**

- A. **Signs Permitted in Agricultural and Residential Districts:**
  - 1. For each dwelling unit, one (1) address sign in compliance with Section 15.05(c) of this Zoning Ordinance.



2. Small accessory signs no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals. The total area of all small accessory signs on one premise shall not exceed eight (8) square feet.
3. One (1) subdivision entrance sign per vehicle entrance may be permitted on private property in compliance with the corner clearance provisions and shall not exceed twenty-four (24) square feet in area or a height of six (6) feet above grade. The location and appearance of all subdivision/condominium signs shall be subject to review and approval by the Planning Commission at the time of site plan review, provided that such signs shall be located no closer than twelve (12) feet from any property line. Adequate provisions shall also be made at the time of site plan review to insure continued maintenance of the sign.
4. No more than one (1) freestanding and one (1) wall institutional sign for schools, churches, libraries, or similar institutions having an area of no more than thirty-two (32) square feet, having a height of no more than six (6) feet above the established grade, and located no closer than ten (10) feet from any property line.
5. Signs of a combined area of not more than thirty-two (32) square feet advertising the name and activities of a permitted nonresidential use or legal non-conforming use. Said sign shall be located on the same parcel as the use. Signs for discontinued legal non-conforming uses shall be removed as provided for in this Chapter.
6. Customary farm and crop signs on active farms.

**B. Signs Permitted in the C-1 and C-2 Commercial Districts:**

1. The total sign area for an occupied parcel of property in the C-1 and C-2 Commercial Districts shall not exceed 125 square feet per 100 feet of street frontage with the total sign area for any parcel not to exceed 200 square feet.
2. One (1) freestanding sign may be allowed per property. Such sign shall not exceed twenty-five (25) feet in height and 100 square feet in area.

3. In addition to the signs allowed in paragraphs 1 and 2 above, wall sign(s) may be erected on the rear or parking lot side of premises not exceeding one-half ( $\frac{1}{2}$ ) square foot for each linear foot of the rear length of the principle building(s), provided that the total sign area shall not exceed thirty-two (32) square feet.
4. Gasoline service stations shall be permitted signs on each pump island indicating the prices and types of gasoline and the type of service. The aggregate area of such signs shall not exceed twenty (20) square feet per pump island. In no event shall the total area of all such signs exceed one-hundred twenty (120) square feet.

**C. Signs Permitted in Industrial and Manufacturing Districts:**

1. One (1) wall sign may be erected per building face up to one-hundred (100) square feet in area or 10% of the total facade area of the building which ever is less.
2. One (1) freestanding (ground or pole mounted) sign may be erected provided said sign does not exceed one-hundred (100) square feet of display area per side. Such sign shall have a height of no more than twenty (20) feet above the established grade and be erected no closer than twenty (20) feet from any property line.
3. In addition to signs permitted in paragraph 1 above, one (1) wall sign shall be permitted for each tenant having an individual means of entranceway into the side or rear of a building. Such sign shall not exceed six (6) square feet in area, and shall be erected not less than four (4) feet nor more than twelve (12) feet above the established grade.
4. Directional signs, up to four (4) square feet in area, designating entrances, exits, parking and unloading areas, shipping docks, and similar internal traffic control signs shall be permitted and located no closer than within five (5) feet of any property line.

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**SECTION 15.08 CONSTRUCTION AND MAINTENANCE REQUIREMENTS**

- A. **MATERIALS AND DESIGN:** All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads, and stresses of the latest adopted edition of the Building Code and requirements of this Chapter.
- B. **FASTENINGS:** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use, and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall be repaired by the erector.
- C. **FREESTANDING SIGNS:** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property.
- D. **SANITATION/LANDSCAPING:** Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.
- E. **MAINTENANCE:** All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within fifteen (15) days of written notification of the Township Zoning Administrator.

**SECTION 15.09 NON-CONFORMING SIGNS**

- A. **INTENT:** It is the intent of this Chapter to encourage eventual elimination of signs that as a result of the adoption of this Chapter become non-conforming, to administer this Chapter to realize the removal of illegal non-conforming signs, and to avoid any unreasonable invasion of established private property rights.

- B. LAWFUL EXISTING SIGNS:** Any sign lawfully existing at the time of the adoption of this Chapter which does not fully comply with all provisions shall be considered a legal non-conforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.
- C. CONTINUANCE:** A non-conforming sign shall not:
1. Be expanded or changed to another nonconforming sign;
  2. Be relocated.
  3. Be structurally reconstructed so as to prolong the life of the sign; or so as to change the shape, size, type, placement, or design of the sign's structural parts; or so as to add illumination;
  4. Be repaired or re-erected after being damaged if the repair or re-erection of the sign, within any 12-month period, would cost more than fifty (50%) percent of the cost of an identical new sign. If deemed necessary by the Zoning Administrator, the cost of an identical new sign shall be determined as the average of no less than three (3) cost estimates obtained from three (3) contractors.
  5. Be altered unless the alteration or reconstruction be in compliance with the provisions of this Chapter. For the purpose of this Chapter only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area; landscaping below the base line; or changing electrical wiring or devices, backgrounds, letters, figures, or characters.
- D. TERMINATION OF BUSINESS:** Nonconforming signs and sign structures shall be removed or made to conform within 60 days of the termination of the business or use to which they are accessory.
- E. CHANGE OF PROPERTY:** If the owner of a sign or the premises on which a sign is located, changes the location of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Chapter.

- F. **ADMINISTRATION:** The Zoning Administrator shall make every reasonable effort to identify all the nonconforming signs within the Township. The Zoning Administrator shall keep complete records of all communications and other actions taken with respect to such nonconforming signs.

## **CHAPTER 16**

### **GENERAL PROVISIONS AND EXCEPTIONS**

#### **SECTION 16.01 INTENT**

All uses, and structures whether permitted by right or by special exception use permit, shall be subject to the following general regulations of this Ordinance.

#### **SECTION 16.02 GENERAL EXCEPTIONS**

- A. **ESSENTIAL SERVICES.** Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance, except that all buildings hereunder shall be subject to site plan review in accordance with this Ordinance. The Zoning Board of Appeals may 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 of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.
- B. **VOTING PLACE.** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

#### **SECTION 16.03 EASEMENTS**

It shall be unlawful for any person to install, erect, cause or permit the installation of a permanent structure (garage, building or large tree) on or across an easement of record that will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use.

**SECTION 16.04 GRADES, ELEVATION DIFFERENTIALS, AND RETAINING WALLS**

- A. The grading of all building lots shall be such so as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property. However, water should not be diverted to adjacent properties.
- B. Retaining walls in excess of four (4) feet in height shall require a building permit. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in a structurally sound condition and shall not impair drainage or create negative impacts on adjacent properties.

**SECTION 16.05 OBSTRUCTIONS TO VISION ON CORNER LOTS**

No structure, wall, fence, shrubbery, parked vehicle, stored material, or trees shall be placed, erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three (3) feet in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

**SECTION 16.06 FENCE, WALL AND PRIVACY SCREEN REGULATIONS**

Fences, walls and privacy screens are permitted subject to the following:

- A. The erection, construction or alteration of any fence, wall or privacy screen as defined herein, shall be constructed within all Township and County codes and shall require a zoning permit.

- B. Fences shall not be taller than four (4) foot in a required front yard nor higher than six (6) foot in a required side or rear yard for parcels located in the R-1 or R-2 or R-4 zoning districts. Fences in the R-4 District shall have a minimum of thirty (30%) percent open.
- C. A six (6) foot fence shall surround all playgrounds associated with a children's day care facility.
- D. Fences with barbed wire and electrical current are prohibited in the R-1, R-2 and R-4 zoning district.
- E. A four (4) foot fence shall surround all below ground swimming pools.
- F. Parcels located in the AG District shall be exempt from all fence height and use restrictions except for swimming pools.

#### **SECTION 16.07 OFF-STREET PARKING REQUIREMENTS**

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as prescribed in Chapter 17 of this Ordinance.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

#### **SECTION 16.08 STORAGE OF OBNOXIOUS MATTER IN OPEN CONTAINERS PROHIBITED**

No garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be accessible to animals.



## **SECTION 16.09 SOIL EXCAVATION OR FILLING**

- A. The deposit or burying of any man made materials such as scrap iron, appliances, tires, and other “junk” as defined in this Ordinance anywhere in Hamilton Township which is not biodegradable is expressly prohibited. The burying of “garbage” as defined in this Ordinance when deemed to be biodegradable (such as plant and animal wastes) shall be permitted when conducted in accordance with County, State, and Federal laws.
  
- B. *This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the Township, and a zoning permit has been issued for said development.***

## **SECTION 16.10 LOT ACCESSIBILITY**

No dwelling unit shall be built on a lot unless the lot abuts upon a public street, or existing private street, or upon a permanent unobstructed access easement of record to a public street. Such easement of record shall have a minimum width of thirty (30) feet, excepting where an access easement of record of less width existed prior to the adoption of this Ordinance. All regulations contained in the Ordinance shall apply to such easements of record in the same manner as if the same were dedicated streets.

## **SECTION 16.11 KEEPING OF FARM ANIMALS AND OTHER ANIMALS**

The keeping, raising, or breeding of animals, poultry or livestock, including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits, commonly kept for 4-H projects) outside of the AG zoning district shall be prohibited. Applicants for 4-H projects who wish to raise a larger animal may petition the Planning Commission for a waiver of the Special Exception Use Permit requirements and request approval of the 4-H project. The Planning Commission may attach any conditions it thinks are necessary to protect adjacent properties from anticipated negative impacts.

## **SECTION 16.12 SWIMMING POOL REGULATIONS**

- A. **PERMIT APPLICATION.** It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and obtaining a permit thereof. Application for such permit shall show the name of the owner, a plot plan of the property showing the location of such swimming pool, a detailed plan and specifications for such swimming pool, and full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein.
  
- B. **LOCATION.** Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.
  
- C. **FENCING.** All below ground swimming pools shall be completely enclosed by a fence not less than four (4) feet in height. Above ground pools shall have locking gates, removable ladders, or a fence not less than four (4) feet in height to restrict unauthorized access.

#### **SECTION 16.13 HOME OCCUPATIONS**

A home occupation may be permitted in a single-family dwelling within a zoning district where such use is permitted, subject to the following conditions:

- A. No more than one (1) person total (not including the members of the family residing on the premises) shall be engaged in such occupation.
  
- B. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than one-quarter (25%) of the floor area of the floor on which the occupation is being conducted may be used for the purposes of the home occupation or for storage purposes in conjunction with the home occupation.
  
- C. A home occupation shall be conducted completely within the dwelling unit or permitted accessory building. A home occupation conducted within an accessory building shall not occupy more than fifty (50%) of said building. Accessory buildings in excess of 1,200 square feet shall be limited to 600 square feet in which to conduct the permitted home occupation.

- D. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation, and there shall be no external or internal alterations not customary in residential areas including the expansion of off-street parking areas in excess of residential standards.
- E. A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communications interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.
- F. Signs not customarily found in residential areas shall be prohibited, however that one (1) non-illuminated name plate, not more than four (4) square feet in area, may be attached to the building, and which sign shall contain only the name, occupation, and address of the premises in the R-1, R-2, and R-4 districts. Freestanding signs not in excess of six (6) square feet in area may be placed on private property in the AG district as an alternative but not in addition to a sign placed on the dwelling.
- G. The hours of operation for a permitted home occupation shall be subject to Planning Commission review and shall be set in accordance with the provisions of this Ordinance based upon the type of use proposed.
- H. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.

**SECTION 16.14 TEMPORARY AND PORTABLE BUILDINGS, USES, & STRUCTURES**

- A. Structures erected for ice fishing and hunting purposes less than one hundred (100) sq. ft. in size are expressly permitted in Hamilton Township and are exempt from the provisions of this Ordinance.
- B. The office and storage trailers of building contractors used in association with the construction of a legally permitted use shall be permitted in all districts. Said office or storage trailer shall be setback at least ten (10) feet from all property lines and be removed within fifteen (15) days after the certificate of occupancy has been granted for the building under construction on the property.

- C.** In addition to any other provisions contained in this Ordinance concerning the location of mobile homes within this Township, mobile homes shall be permitted outside of mobile home parks in the AG, R1 Districts on a temporary basis as provided hereafter:
1. In the case where a residence has been damaged by fire or tornado, an application for a Special Exception Use Permit can be made directly to the Township Board to use a mobile home as a temporary residence during the construction of a new dwelling house. In the event that the Township Board is satisfied that the ability and intent to erect a dwelling house on the premises is shown it may issue a Special Exception Use Permit to use a mobile home as a temporary residence, which permit shall expire one (1) year from the date of approval. Said permit may be extended for one (1) additional year if the Township Board is satisfied that substantial progress has been made in the erection of the new dwelling house. Said mobile home shall be removed from the premises within one (1) month from the aforesaid expiration date. The applicant must abide by all other provisions of this Ordinance.
  2. A mobile home may be used as temporary housing for an aged or handicapped parent(s), or handicapped child, of the owner of the parcel on which the mobile home is proposed to be located. A temporary mobile home falling under this category shall not be limited as to the number of one-year extensions which may be granted, and said mobile home shall be removed within three (3) months from the date it is no longer occupied by such parent(s) or child. The owner of said premises shall submit an application for a Special Exception Use Permit to use a mobile home as a temporary residence to the Township Clerk, and the procedures for a Special Exception Use Permit, as set forth in the Zoning Ordinance shall be commenced. Notice of the application for a Special Exception Use Permit shall be given to those properties that lie within 300 feet of the applicant's property. The Planning Commission shall conduct a public hearing in regard to said application and, if it recommends approval, shall forward said recommendation to the Township Board for final action. If the Township Board approves of such permit, the permit shall be issued, and the applicant must abide by all other provisions of this Ordinance.

- D. Other provisions relating to the use of Mobile Homes as temporary residence.**
- 1. The application shall be accompanied by a fee as set by the Township Board and shall include the following information: (a) the name and address of the legal owner of the lot, (b) a legal description of the lot, (c) a diagram showing the size of the lot and the lot lines, and the proposed location of the mobile home on the lot, and (d) an affidavit that the owner of the lot occupies and uses the lot as his/her personal residence on a year round basis, and will continue to do so while the permit is in effect, and in the event the application is made pursuant to section C 2 above, said affidavit shall set forth the relationship of the persons occupying said mobile home to the owner of the lot and clear and convincing evidence that the physical or mental condition of the person to occupy said mobile home is so poor that close supervision is necessary for that person's health and safety.**
  - 2. The mobile home shall be limited to single-family occupancy located on one or more acres of property.**
  - 3. The mobile home shall meet the setback requirements of the district in which it is located.**
  - 4. No more than one (1) mobile home shall be located on a parcel.**
  - 5. The applicant shall also submit an approved and signed health department permit from the Van Buren County Health Department and shall have a HUD Certification on said mobile home and comply with any related local, state or federal requirements.**
  - 6. The applicant shall further sign an agreement with the Township as to the removal of the mobile home and, should the applicant fail to remove said home, then the Township shall be authorized to remove it and the costs shall constitute a lien on said property. It is the burden of the applicant to demonstrate good faith in receiving the permit by informing the Township of any changes in the circumstances connected with the permit.**

7. Other conditions as may be reasonably applied by the Planning Commission to appropriately assure the compliance with the provisions of this Ordinance.

#### **SECTION 16.15 BUILDING PERMITS ISSUED PRIOR TO EFFECTIVE DATE**

Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning permit issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and applications on which said building permit was granted.

A building, which is lawfully under construction at the time of adoption of this Ordinance, shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

#### **SECTION 16.16 RESTORATION OF UNSAFE BUILDINGS**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or required compliance with his or her lawful order. Furthermore, upon the determination of the Building Inspector and official notification thereof to the property owner, the Township Board may order the demolition and removal of any designated unsafe building. In addition, the cost of said removal shall be borne by the property owner. If the property owner fails to pay for the cost of the removal within 60 days of the date the building was removed, the Township may either place a lien on the property or place the cost of said removal on the next available tax bill as a special assessment against the property.

#### **SECTION 16.17 MOVING OF BUILDINGS**

Any building or structure (*except agricultural buildings*) that has been wholly or partially erected on any premises located within the Township shall not be moved to and be placed upon any other premises in the Township until a zoning permit for such removal has been secured

according to the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.

Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Building Code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the Township or County, may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a zoning permit shall be issued for the moving of such a building or structure.

#### **SECTION 16.18 EXCEPTIONS TO AREA AND WIDTH REQUIREMENTS**

- A. **RECORDED LOTS.** Lots established by a legally recorded plat or deed prior to the adoption of this Ordinance which have less than the minimum area or width requirements established by this Ordinance, may nevertheless be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this Ordinance and which met the requirements of said Ordinance, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which such lot is located.
  
- B. **LACK OF PUBLIC UTILITIES.** In areas not served by public or other approved community water and/or sewage facilities, the minimum lot areas required by this Ordinance shall be increased to include any additional area deemed necessary by the appropriate Van Buren County Health Department requirements to insure safe water supply and/or adequate sewage disposal.

#### **SECTION 16.19 NUMBER OF BUILDINGS ON A LOT**

Every building hereinafter erected or structurally altered shall be located on a lot and there shall be not more than one (1) main building on one (1) lot unless otherwise allowed in this Ordinance. Exceptions to the aforementioned requirement include dwellings permitted as a

result of a Planned Unit Development (PUD) open space project, or site condominium project and temporary structures meeting the requirements set for in this Chapter.

### **SECTION 16.20 ILLEGAL DWELLINGS**

The use of any portion of the basement of a partially completed building, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. No dwelling unit shall be erected in an industrial district. However, the sleeping quarters of a watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

### **SECTION 16.21 OTHER PROJECTIONS INTO YARDS**

- A. **CORNICE, SILL, CHIMNEY, OR FIREPLACE.** A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard 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 or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than five (5) feet.
- B. **FIRE ESCAPE.** A fire escape may extend or project into any front, side, or rear yard not more than four (4) feet.
- C. **OPEN STAIRWAY OR BALCONY.** An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required yard not more than six (6) feet and such balcony may extend into a required front yard not more than six (6) feet.
- D. **PORCH, OPEN.** An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than eight (8) feet is exempted from yard requirements provided that the width of a side yard is not reduced to less than five (5) feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.



- E. **HANDICAPPED RAMPS.** Handicapped ramps may extend into required yard areas not more than fifteen (15) feet.

## **SECTION 16.22 ACCESS THROUGH YARDS**

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Furthermore, any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

## **SECTION 16.23 ACCESSORY BUILDINGS AND STRUCTURES**

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

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.
- B. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building, structure, or use may be placed on a lot without a principal building, structure, or use except as otherwise provided for in the AG zoning district. In no case shall an accessory building be located in the required front yard.
- C. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
- D. All accessory buildings, structures and uses combined shall cover no more than fifty (50) percent of any rear yard, subject to setback, lot coverage, and other standards of this Ordinance. Accessory buildings shall not be erected in any required front yard. In no instance shall such a building be nearer than ten (10) feet to any adjoining lot line or twenty-five (25) feet from a street right of way.
- E. No detached accessory building shall be located closer than ten (10) feet to any main or principal building.

- F. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
- G. In the case of an accessory building located in the rear yard on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, such accessory building shall be set back from the streets side at least as far as the required front yard setbacks of the lot at the rear of the subject corner lot.
- H. No accessory building may be closer than five (5) feet to any other accessory building.

**SECTION 16.24 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES**

- A. **AUTHORIZATION.** In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a deleterious effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

However, it is recognized that these specified controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other retail establishments. Special designation and regulation in the I-1 and M Districts is therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less deleterious.

- B. **USES SPECIFIED.** Uses subject to these controls as defined herein as “adult businesses” means adult bookstores, adult cabarets, adult movie theaters, adult

personal service businesses, adult novelty businesses, massage parlors and nude modeling studios, or any combination thereof as defined in this Section, which meets all other criteria of this Ordinance as used in this Section

1. "Adult bookstore" means an establishment which excludes minors, as defined in MCLA 722.51 et seq. and has, as a significant portion of its stock in trade, books, periodicals, magazines, newspapers, pamphlets, pictures, photographs, motion pictures films and/or videotapes, or novelty items or paraphernalia which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such material which exceeds thirty-five percent (35%) of the floor area of the establishment.

2. "Adult business, significant portion" means a business where a significant portion of the stock in trade or services provided meets at least one of the following criteria:

- a. Thirty-Five percent or more of the stock, materials, novelties or services provided are classified as adult materials and/or services as defined herein.
- b. Thirty-Five percent or more of the usable floor area of the building in which the adult business is located, is used for the sale, display and/or provision of services classified as adult materials and/or services, as defined herein.
- c. The advertising (signs, publications, television, radio, and other media) associated with the business depicts, describes or relates to specified sexual activities and/or specified anatomical areas.

3. "Adult cabaret" means an establishment (which may or may not include the service of food or beverages) having as an activity the presentation or display of male or female impersonators, dancers, entertainers, waiters, waitresses or employees who display specified anatomical areas as defined herein.

4. "Adult movie theatres" means an establishment, in a completely enclosed building or room, which excludes minors, as defined in MCLA 722.51 et seq., and offers, for an admission fee, membership fee or other valuable consideration, the viewing of motion picture films, videotapes, pictures or photographs, cable television, satellite transmissions or the visual media, which are distinguished or

characterized by their emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined herein, for the observation of patrons therein.

5. "Adult novelties" means objects, items, and/or devices offered for sale which are designed for sexual stimulation or which stimulate human genitals.

6. "Adult personal service business" means a business having as its principal activity a person, while nude or while displaying specified anatomical areas, as defined herein, providing personal services for another person. Such businesses include, but are not limited to, modeling studios, body painting studios, wrestling studios, personal dance rooms, and conversation parlors.

7. "Buttock" includes the perineum and anus of any person.

8. "Massage parlor" means an establishment wherein private massage is practiced, used or made available as a principal use of the premises.

9. "Massage" means offering for sale through the use of physical, mechanical or other devices, the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating of the body of another. Services provided by licensed, insured, therapeutic massage professionals shall fall outside of the parameters of this Ordinance.

10. "Nude modeling studio" means 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.

11. "Offered for sale" means offered in exchange for money, membership fee or any other valuable consideration.

12. "Sexual intercourse" includes genital coitus, fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any person's body.

13. "Sodomy" means any abnormal sexual act between humans, including humans with animals.

14. "Specified anatomical areas" means

- a. Human male genitals in a discernable turgid state, even if completely

- and opaquely covered; or
- b. Less than completely covered:
  - i. Female breasts below a point immediately above the top of the areola.
  - ii. Human genitalia and the pubic region; and
  - iii. A buttock and anus.

15. "Specified sexual activities" are defined as:

- a. ***Acts of human masturbation, sexual intercourse or sodomy;***
- b. Fondling or other erotic touching of human genitalia, a pubic region, buttock, an anus or a female breast.
- c. Human genitalia in a state of sexual stimulation or arousal.

C. **SITE LOCATION REQUIREMENTS.** Any existing building or land, or a new building hereinafter erected, which is to be used for an adult business shall comply with all the following location requirements:

1. An adult business shall be located only in I-1 Industrial District or M-Manufacturing District as a Special Exception Use.
2. No adult business shall be located within a one-thousand (1000) foot radius, measured from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated, from any of the following: the R-1, R-2, R-3, or R-4 zoning districts; a church, monastery, temple, or similar place of worship; cemetery; school; library; public park or playground; non-commercial public assembly facility; public office building; licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.); arcade; adult foster care home or senior citizen center.
3. No adult business shall be permitted within a one-thousand (1000) foot radius measured from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated, from an existing adult business.

D. **SITE DEVELOPMENT REQUIREMENTS.**

1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.

2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature, including specified anatomical areas or specified sexual activities as defined herein. No sign or any part thereof shall not have movement nor shall the illumination of any sign or any part of such illumination be anything other than a steady, continuously burning bulb or light. The flashing or turning on and off of the sign illumination of any bulb or component part thereof is prohibited and the light from such sign shall be shielded in a manner so that same will not shine onto adjacent properties or abutting streets. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the Township Board prior to their use

3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the Township Board.

4. No loud speakers or sound equipment shall be used by an adult business that projects sound outside of the adult business so that sound can be discerned by the public from public or semi-public areas.

**E. USE REGULATIONS.**

1. No person shall reside in or permit a person to reside in the premises of an adult business.

2. No alcoholic beverages of any type shall be permitted on said premises.

3. The owners, operators, or persons in charge of an adult business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.

4. Entrances to a proposed regulated adult business, together with the interior walls thereof, must be posted with a sign in a location clearly visible to those entering and exiting the business that (a) persons under the age of eighteen are not

permitted to enter the premises, and (b) no alcoholic beverages of any type are permitted within the premises.

5. No adult business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.

6. No person shall operate an adult business without obtaining a current zoning and building occupancy permit and complying with all other provisions of this Ordinance and all other applicable Ordinances, or State or Federal laws or regulations.

7. No person shall lease or sublease, nor shall anyone become the lessee or sublessee of any property for the purpose of using said property for an adult business without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits.

F. **CONDITIONS AND LIMITATIONS.** Prior to the granting of any permit herein provided, the Planning Commission or Township Board may impose such conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as may in its judgment, be necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit or license issued.

G. **LIMIT ON RE-APPLICATION.** No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.

## **SECTION 16.25 AUTOMOBILE FILLING STATIONS AND SERVICE STATIONS**

A. **PURPOSE.** In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automotive fueling stations and service stations and to regulate and control other

problems incidental to these uses that they may exercise upon adjacent and surrounding areas, the following regulations and requirements shall be required in any zoning district. All automotive fueling stations and service stations erected after the effective date of this Ordinance shall comply with this section. No automotive fueling station or service station existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this Ordinance.

- B. MINIMUM AREA AND FRONTAGE.** An automotive fueling station, service station, repair center, or public garage shall be located on a lot having a frontage along the principal street of not less than one-hundred-fifty (150) feet and having a minimum area of fifteen-thousand (15,000) square feet.
- C. SETBACKS.** An automotive fueling station, service station, repair center, or public garage building housing an office and/or facilities for servicing, greasing, and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line and not less than forty (40) feet from any side or rear lot line directly adjoining a residential zoning district.
- D. DRIVEWAY AND CURBS.**
1. All driveways providing ingress to or egress from an automotive fueling station, service station, repair center, or public garage shall comply with the standards of this Ordinance, and shall not be more than thirty (30) feet wide at the property line. Not more than two (2) curb openings shall be permitted along any street. No driveway or curb opening shall be located nearer than twenty (20) feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than thirty (30) feet, as measured along the property line, to any other driveway. All drive approaches shall otherwise meet Van Buren County Road Commission or State of Michigan standards for construction, turning lanes, and placement.
  2. A raised concrete curb, six (6) inches in height, shall be erected along all driveway openings to minimize erosion and to appropriately direct traffic.
- E. PAVED AREAS.** All parking areas, isles, driveways and loading areas shall be hard surfaced with concrete or a plant-mixed bituminous (asphalt) material, except undeveloped and landscaped areas.



- F. **EQUIPMENT LOCATION.** All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline and fuel pumps shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right of way.
- G. **NUMBER OF PUMPS.** An automotive fueling station, service station, or repair center located on a lot having an area of fifteen-thousand (15,000) square feet or less shall include not more than four (4) double gasoline and fuel pumps or eight (8) single gasoline and fuel pumps and two (2) enclosed stalls for servicing, lubricating, greasing, and/or washing motor vehicles. An additional two (2) gasoline and fuel pumps and/or one (1) enclosed stall may be included with the provision of each additional two-thousand square feet of lot area.
- H. **WALLS AND SCREENING.** Where an automotive fueling station, service station, repair center, or public garage adjoins property located in any residential zoning district, screening shall be provided.
- I. **LIGHTING.** All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all requirements of this Ordinance.
- J. **OUTDOOR STORAGE AND PARKING.** All major repair work shall be conducted completely within an enclosed building. Minor repair work (i.e. the replacement of wipers, light bulbs, batteries, etc.) taking one hour or less to complete shall be permitted. There shall be no storage of vehicle components, parts, trash, supplies, or equipment outside of a building. Outdoor storage or parking of vehicles or trailers, other than private passenger automobiles, shall be prohibited between 10:00 p.m. and 7:00 a.m. of the following day, except that equipment rental operations shall be permitted if incidental to the automotive fueling station, service station, or repair center, and if restricted to travel trailers or campers of under twenty-one (21) feet overall length, car-top carriers, and similar auto accessories. Such operations shall be within fenced enclosures observing the same setbacks required for buildings in the zoning district wherein the automotive fueling station, service station, or repair center is located.
- K. **REMOVAL OF UNDERGROUND STORAGE TANKS.** In the event that an automotive fueling station, service station, repair center, or public garage use has been abandoned or terminated for a period of more than one (1) year, all

underground gasoline storage tanks shall be removed from the premises in accordance with State and Federal regulations and statute.

## **SECTION 16.26 CONDOMINIUM DEVELOPMENT STANDARDS**

### **A. PURPOSE AND SCOPE.**

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by the Hamilton Township Zoning Ordinance may be permitted in a site condominium project.

2. The purpose of this Section is to ensure that the plans for developments within Hamilton Township proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, other applicable Township ordinances and state and federal regulations.

**B. SITE CONDOMINIUM REVIEW AND APPROVAL PROCEDURES (STEP I REVIEW).** Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Zoning Administrator, who shall distribute it to all Planning Commission members.
  - a. A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
  - b. A statement regarding the provision of sewer service and water supply.
  
2. During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
  - a. General requirements of this Section and other applicable provisions of this Ordinance.
  - b. Planned or anticipated sites of parks and recreation areas and other public uses.
  - c. Utility system capabilities.
  - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
  - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.

- f. Additional information that will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
- 3. This review is intended for information purposes only and does not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
  - 4. Following preliminary review, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
    - a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.
    - b. Van Buren County Drain Commissioner
    - c. Van Buren County Road Commission
    - d. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

**C. SITE CONDOMINIUM REVIEW AND APPROVAL PROCEDURES (STEP II REVIEW).**

- 1. An application for preliminary review of a site condominium subdivision project shall be made to the Zoning Administrator along with the appropriate fees as required by Township Board resolution. The application shall, at a minimum, contain the following information:
  - a. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Township approvals of individual uses on individual building sites.

- b. The applicant's name, address, and phone number.
  - c. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.
  - d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
  - e. The legal description, address and tax parcel number of the property.
  - f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
  - g. Gross and net size of the parcel in acres.
  - h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
  - i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
  - j. A copy of any preliminary agreements that may be required before final plan approval is granted.
  - k. A copy of the proposed master deed of the project and the supportive information that is intended to be recorded with the County Register of Deeds as required by state law.
2. The applicant shall provide at least ten (10) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Zoning Administrator. The plans at the time of their submittal shall contain the information required for preliminary site condominium plan as required by this Ordinance.

3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
4. Upon receipt of the preliminary site condominium project plans, the Zoning Administrator shall forward one copy to each member of the Planning Commission, and the Township Engineering or Planning Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.
5. The Zoning Administrator shall notify by mail, all the members of the Planning Commission, that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given at least fifteen (15) days prior to the hearing by one (1) publication in a newspaper of general circulation in the Township and by notice by mail to each public utility company within the geographical sections or divisions of the Township affected by the proposed development. Notices of said hearing shall also be sent, not less than fifteen (15) days prior to the date fixed therefore, by mail to the applicant and to all owners within three hundred (300) feet of the subject property. The Zoning Administrator shall also give such notice of the meeting as required by the Open Meetings Act. In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval. If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:
  - a. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
  - b. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.

- c. Final approval of the plan for a Site Condominium shall be made by the Hamilton Township Board.
  
- D. **SETBACKS AND BOUNDARIES.** The set back requirements for condominium buildings shall be determined as follows:
  - 1. **SINGLE FAMILY UNITS.**
    - a. The front yard setback shall be one-half (½) the approved or recorded street right of way, plus the current setback for the existing zoning district.
    - b. The side yard setback shall be the minimum required within the zoning district.
    - c. The rear yard setback shall be the minimum required within the zoning district.
  - 2. Multiple family units shall meet the standards of the R-2 Medium Density Residential District.
  - 3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the by-laws and recorded as part of the master deed.
  
- E. **COMMON ELEMENTS.** After construction of a condominium unit, the undeveloped area of a unit shall become a common element.
  
- F. **ENCROACHMENT.** A condominium project shall not be constructed in a manner that intentionally creates an encroachment.
  
- G. **SUBDIVISION OF UNIT SITES.** Subdivision of condominium unit sites is permitted following Planning Commission review and recommendation, and final approval by the Hamilton Township Board, contingent upon the submission of an

amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made a part of the by-laws and recorded as part of the master deed.

- H. **CONFORMANCE WITH SUBDIVISION REGULATIONS.** All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this Ordinance or with the Township's Code of Ordinances.
- I. **WATER AND WASTEWATER.** The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and wastewater disposal.
- J. **EXPANSION AND CONVERSION.** Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.
- K. **MASTER DEED.** The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the by-laws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.
- L. **AS-BUILT PLANS AND OCCUPANCY.** Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the Township, 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. The amount and form of the escrow shall be determined by the Township Planning Commission. Fees for these reviews shall be established and adjusted by the Township Board of Trustees.
- M. **FINAL BY-LAWS, CONSOLIDATED MASTER DEED, AND SITE PLAN.** Upon approval of the development, the applicant shall furnish the Township a copy of the by-laws and consolidated master deed. The development plan shall be provided on a mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.



- N. **COMPLIANCE WITH OTHER STATUTES AND ORDINANCES.** All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.

**SECTION 16.27 WIRELESS COMMUNICATIONS FACILITY REQUIREMENTS**

All transmission towers and telecommunication facilities within Hamilton Township shall be in accordance with Ordinance 2001-1 or any subsequent Ordinance, which regulates height, placement, collocation and other relevant features of such facilities.

**SECTION 16.28 MINING, SAND AND GRAVEL**

- A. The application for a Special Exception Use Permit for such uses shall also contain the following:
1. Name of owner of lands from which removal is to be made.
  2. Proposed method of removal and equipment intended to be used in the removal.
  3. Proposed method of restoration of area after removal of resources is completed.
  4. A map of the parcel involved showing all buildings, streets, drainage facilities and natural features within two hundred (200) feet thereof shall accompany the application.
  5. A topographic contour plan of the proposed restoration elevations shall also be presented with the application where qualities of earth are to be removed from the parcel.
  6. Certification by the Van Buren County Road Commission, Van Buren County Drain Commissioner, and the Van Buren County Soil Conservation Service that the proposed use will not severely threaten the public safety or property rights of others and that sedimentation control standards of the Soil Conservation Service will be met.

- B. The change in the natural contour of the land during mining operations and at the cessation of same shall be maintained as safe for any person having reason to be within the area of mining activity and all trespassers.
- C. No business or industrial structures or buildings of a permanent nature shall be erected without prior approval.
- D. No truck parking or truck storage shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any adjoining property.
- E. A well maintained wire or painted wooden fence shall be erected on any side adjoining a residential property.
- F. No part of the removal process shall take place closer than two hundred (200) feet to the nearest adjacent residence or closer than fifty (50) feet to any street line.
- G. The proposed restoration elevations shall be compatible with surrounding areas and adequate safeguards shall be made to insure proper drainage.
- H. The property shall be restored by the replacement of topsoil and such soil shall be stabilized by appropriate plantings.
- I. All truck traffic shall be directed away from residential streets.

#### **SECTION 16.29 RIPARIAN LOT USE REGULATIONS**

- A. **PURPOSE:** It is the purpose of this section to protect the quality of the lakes located within Hamilton Township, to protect the health, safety and general welfare of riparian owners and other users of said lakes; to preserve the recreational use of said lakes while discouraging excess use thereof; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing man-made adjustments to the established shorelines. Nothing in this section shall be construed to limit access to lakes or waterways by the general

public by way of a public park or public access site provided or maintained by any unit of state, county or local government.

- B. **DEFINITIONS:** As used herein "Access property" shall mean any waterfront parcel of land or lot adjoining or abutting a lake, or other body of water connected to a lake, which is used or intended to be used, for providing access to a lake by pedestrian or vehicular traffic to and from non - waterfront land, regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form of dedication or conveyance.
- B. **WATERCRAFT:** As used herein "watercraft" shall mean a contrivance used or designed for navigation on water whether motorized or non-motorized including but not limited to a motor boat, pontoon, boat, jet ski (personal watercraft), sailboat, canoe, kayak and paddleboat.
- C. **REGULATIONS:** In any zoning district where a parcel of land, lot or site condominium unit is adjoining or abutting a lake, or other body of water connected to a lake, whether such parcel is held in common by a subdivision, association or any other entity or similar agency; or held in common by virtue of the terms of a plat of record; or providing for common use under deed, easement, licensing or use covenants, or owned by one or more dwelling units located away from the water front, such parcel of land may be used as access property only if the following conditions are satisfied:
1. Said parcel of land, lot or site condominium unit shall contain a minimum of fifty (50) lineal feet of water frontage and a minimum depth of one hundred (100) feet for each single family home, cottage, condominium unit, site condominium unit, apartment, or other individual dwelling unit to which access privileges are extended or dedicated. Water frontage shall be measured by a straight line which intersects each side line of said lot, parcel of land, or site condominium unit at the water's edge.
  2. In no event shall water frontage of such lot, parcel or site condominium unit consist of a swamp, marsh or bog as shown on the most recent U.S. Geological Survey maps or the Michigan Department of Natural Resources MIRIS map, or have been determined to be wetland by the Michigan Department of Environmental Quality; nor shall a swamp, marsh, bog or wetland be altered by dredging or the addition of earth or

fill material, or by the drainage of water for the purpose of increasing the water frontage required by these regulations.

3. In no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by these regulations.
4. Access property as herein provided for shall not be used as a residential lot for the purpose of constructing a dwelling unit and/or accessory structure(s), or for any commercial or business use.
5. Not more than one pier or dock may be located on such access property for each fifty (50) lineal feet of water frontage, and same shall not be located closer than twenty (20) feet from any other pier or dock.
6. Not more than four (4) watercraft may be moored or stored in any manner on land or in the water for each fifty (50) lineal feet of waterfront access property.

#### **SECTION 16.30 OFF-ROAD VEHICLE TRACK OR PARK**

A. **PURPOSE.** In the interest of maintaining public health, safety, repose and comfort of the Township and its residents, the Township desires to define characteristics of off-road vehicle (ORV) tracks or parks and to regulate the operations of ORVs on tracks or parks within the Township.

B. **DEFINITIONS:**

1. Off-road vehicle (ORV) track or park: Any parcel of land where six (6) ORVs or dirt bikes, or more, are operating for entertainment or recreational purposes, or on any parcel of land where the landscape has been altered consistent with that of a ORV track or park so as to provide trails, jumps, obstacles, hills or tracks for racing or competing.
2. All-terrain vehicle (ATV): a 3- or 4-wheeled vehicle designed for off-road use that has low-pressure tires, a seat designed to be straddled by the rider, and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.

3. **Off-road vehicle (ORV):** A motor driven off-road recreational vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. An ORV includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving moving power from a source other than muscle or wind. Examples of an ORV include an all-terrain vehicle (ATV), a mini-bike, motorbike, motorcycle, dirt bike, or four-wheel drive truck.

4. **Quiet weekends:** A period of time from 6:00 p.m. Friday until 12:00 p.m. (noon) Monday, where no ORV activity is allowed on an ORV track or park.

**B. REGULATIONS:**

1. **Minimum Lot Size.** The minimum lot size for an ORV track or park is fifty (50) acres.

2. **Setbacks.** The outer dimensions of the ORV track or park shall be five hundred feet (500') from any residence other than that of the operator, and one hundred feet (100') from the property line or right-of-way line. If subsequent development would cause an encroachment within these setbacks, the track or park must be reoriented to meet these requirements.

3. **Maximum Number.** A maximum number of twenty (20) ORVs or dirt bikes will be allowed in operation at an ORV track or park at any one time.

4. **Hours of Operation.** ORV tracks or parks may be in operation between the hours of 12:00 p.m. (noon) and 6:00 p.m. any day of the week, with the exception of "quiet weekends" as defined in this Section, and no ORVs may operate on ORV tracks or parks for more than one (1) consecutive hour. For each hour of continuous operation an hour of inoperation/rest must follow immediately thereafter. (Example: If ORVs are running from 12:00 p.m. to 1:00 p.m., ORV track or park will be shut down from 1:00 p.m. – 2:00 p.m. Riding would resume at 2:00 p.m.)

5. **Quiet Weekends.** A property owner within 660 feet of the ORV track or park may request a quiet weekend for any purpose, provided that written notice is sent to the Township Board at least ten (10) business days in advance of the quiet weekend. The Township shall notify the ORV track or park

owner/operator and the Van Buren County Sheriff's Department at least five (5) business days prior to that quiet weekend. Upon issuance of a quiet weekend request, the ORV track or park owner/operator shall not operate any ORV on the track or park during the time period of the quiet weekends.

6. All provisions of MCL 324.81101 et seq. shall apply to ORV use.
7. Noise limitations. ORV tracks or parks shall be subject to Township noise ordinances and/or regulations.
8. ORV tracks or parks shall be subject to such further regulations or conditions as shall be deemed reasonable and appropriate by the Hamilton Township Board to comply with the purpose as set forth in subparagraph A of this Section.

## CHAPTER 17

### PARKING AND LOADING STANDARDS

#### SECTION 17.01 OFF-STREET PARKING REQUIRED.

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

#### SECTION 17.02 GENERAL REQUIREMENTS.

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

- A. **OFF-STREET PARKING SPACES FOR ONE AND TWO-FAMILY DWELLINGS.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. No parking shall be permitted in the required front yard except on a driveway, which leads to an approved parking space.
- B. **OFF-STREET PARKING FOR MULTIPLE-FAMILY AND NON-RESIDENTIAL USES.** Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use. Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.

- C. **EXISTING PARKING FACILITIES.** An area designated as required off-street parking facilities in existence at the effective date of this Ordinance shall not be reduced below the requirements for the use or building served as set forth in this Ordinance.
- D. **JOINT USE OF FACILITIES.** Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses.
- E. **NON-OVERLAPPING OPERATING HOURS.** In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of Section 17.03.
- F. **RESTRICTION OF PARKING ON PRIVATE PROPERTY.** It shall be unlawful to park or store any motor vehicle on private property without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.
- G. **DURATION.** Except when land is used as permitted storage space in direct connection with a business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district.
- H. **USE OF LOADING SPACE.** Required loading spaces shall not be counted or used for required parking.
- I. **FRACTIONAL REQUIREMENTS.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
- J. **USES NOT SPECIFIED.** For those uses not specifically mentioned under Section 17.03, the requirements for off-street parking facilities shall be in accord with a use, which the Planning Commission considers to be similar in type.



**SECTION 17.03 TABLE OF OFF-STREET PARKING REQUIREMENTS.**

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

Use	Spaces Per Unit of Measure
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**1. Residential**

- a. Residential, One-Family and Two-Family Dwelling, including mobile homes. Two (2) for each dwelling unit.
- b. Residential, Multiple-Family One (1) for each efficiency unit, one and one-half (1-1/2) for each one (1) bedroom unit, two (2) for each two (2) bedroom unit, and three (3) for three (3) or more bedroom units.
- c. Residential, Multiple-Family Senior Citizen Housing One (1) for each dwelling unit plus one (1) for each employee. If units revert to general occupancy, then Section 17.03(1)b above applies.
- d. Boarding, Rooming, Lodging One (1) parking space for each, and/or occupancy unit plus one (1), parking space for each employee on the largest employment shift.

**2. Institutional**

- a. Churches, Temples or Synagogues One (1) for each three (3) seats, based on maximum seating capacity in the main unit of worship.
- b. Hospitals One (1) for each patient bed, plus one (1) additional space for every worker employed during the eight (8) hours shift in which the greatest number of employees are on duty.
- c. Foster Care Group Homes, Homes for the Aged, Convalescent Homes and Children Homes One (1) for each three (3) beds, plus one (1) for each employee on the largest employment shift.

- d. **Elementary and Junior High Schools**                      One (1) for each one (1) teacher, employee or administrator, plus one (1) per classroom for visitor use in addition to the requirements for the auditorium, if provided.
- e. **Senior High Schools**                                      One (1) for each teacher, employee or administrator, one (1) for each ten (10) students, and one (1) per classroom for visitor use, in addition to the requirements for the auditorium and stadium, if provided.
- f. **Private Clubs or Lodge Halls**                      One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
- g. **Fraternity or sorority**                                      One (1) for each five (5) permitted active members, plus one (1) per employee on the largest employment shift.
- h. **Boat Launch, Private or Public**                      Twenty-four (24) combined vehicle and boat trailer spaces for each one (1) individual boat ramp.
- i. **Theaters and Auditoriums**                                      One (1) for each three (3) seats plus one (1) for each two (2) employees on the largest employment shift.
- j. **Libraries, Museums, Cultural**                                      One (1) for each 400 square feet of gross floor area.
- k. **Nursery, Day Care, or Child Care Centers**                                      One for each three hundred fifty (350) square feet of usable floor space.

**3. Recreational**

For each use below, additional spaces shall also be provided as required for restaurants, bars, clubhouses, pro shops, or other affiliated facilities.

- a. **Archery Facilities**                                      One (1) for each two targets.
- b. **Softball, Baseball Fields**                                      Twenty-five (25) for each playing field.
- c. **Bowling Establishments**                                      Six (6) for each lane.
- d. **Health Clubs**    One (1) for each two (2) persons who, may be





- i. **Laundromats and Coin Operated Dry Cleaners**                      One (1) for each two (2) washing machines.
  - j. **Mortuary Establishments**                      One (1) for each fifty (50) square feet of assembly room parlor, and slumber room.
  - k. **Motel, Hotel or Other Lodging Establishments**                      One (1) for each one (1) occupancy Commercial unit plus one (1) for each one (1) employee on the largest shift, plus extra spaces for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load.
  - l. **Motor Vehicle Sales and Service Establishments, Trailer Sales and Rental, Boat Showrooms**                      One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room, plus one space per employee on the largest employment shift.
  - m. **Open Air Business**                      One (1) for each six hundred (600) square feet of lot area used in open air business.
  - n. **Restaurant, Carry-Out**                      One (1) for each one hundred (100) square feet of gross floor area.
  - o. **Roadside Stands**                      Six (6) for each establishment.
  - p. **Retail Stores, Except as Otherwise Specified Herein**                      One (1) for each one hundred and fifty (150) square feet of usable floor area.
  - q. **Shopping Center/Clustered Commercial**                      Four (4) spaces per one thousand (1,000) square feet of gross floor area.
- 5. Offices**
- a. **Banks, Savings and Loan Offices**                      One (1) for each one hundred (100) square feet of usable floor area, and four (4) stacking spaces for each drive-in or drive-thru transaction station as required by Section 17.05.
  - b. **Business Offices or Professional Offices, except as indicated in the following item (c)**                      One (1) for each two hundred (200) square feet of usable floor area.

- c. Medical or Dental Clinics, Professional Offices of Doctors, Dentists, or Similar Professions similar use area. One (1) for each one hundred (100) square feet of usable floor area in waiting rooms and one (1) for each examining room, or dental chair.
- d. Offices of local, state or federal government or non-profit agencies. One (1) for each two hundred (200) square feet of usable floor area.

**6. Industrial**

- a. Industrial or Research Establishments Five (5) plus one (1) for every one (1) employee in the largest working shift. Parking spaces on the site shall be provided for all construction workers during the period of plant construction.
- b. Wholesale or Warehouse Establishments Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every one thousand seven hundred (1,700) square feet of gross floor area, whichever is greater.

**SECTION 17.04 OFF-STREET PARKING FOR PERSONS WITH DISABILITIES**

Off-street parking facilities as required under this Ordinance shall include, in accordance with the following table and identified by signs, parking spaces that are reserved for persons with disabilities. Signs shall be located approximately six (6) feet above grade. Each reserved parking space shall be not less than twelve (12) feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet shall be provided for wheelchair access. Parking spaces for persons with disabilities shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

Total Parking Spaces in Lot	Required Number of Handicapped Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
over 1,000	20 plus 1 for each 100 spaces over 1,000

**SECTION 17.05 OFF-STREET WAITING AREA AND STACKING SPACES FOR DRIVE-THRU FACILITIES.**

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.
  
- B. Self-service motor vehicle car wash establishments shall provide three (3) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self service, shall provide stacking spaces equal in number to three (3) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity"

shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by twenty (20) feet. A drying lane fifty (50) feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.

- C. An off-street waiting space is defined as an area ten (10) feet wide by twenty (20) feet long.

#### **SECTION 17.06 OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION, AND MAINTENANCE.**

All off-street parking lots shall be laid out, constructed, and maintained in accordance with the following requirements:

- A. **REVIEW AND APPROVAL REQUIREMENTS.** In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Chapter 18.01. In the event that proposed off-street parking is not part of a development requiring site plan review, the applicant shall submit a parking plan to the Township Planning Commission for review and approval.

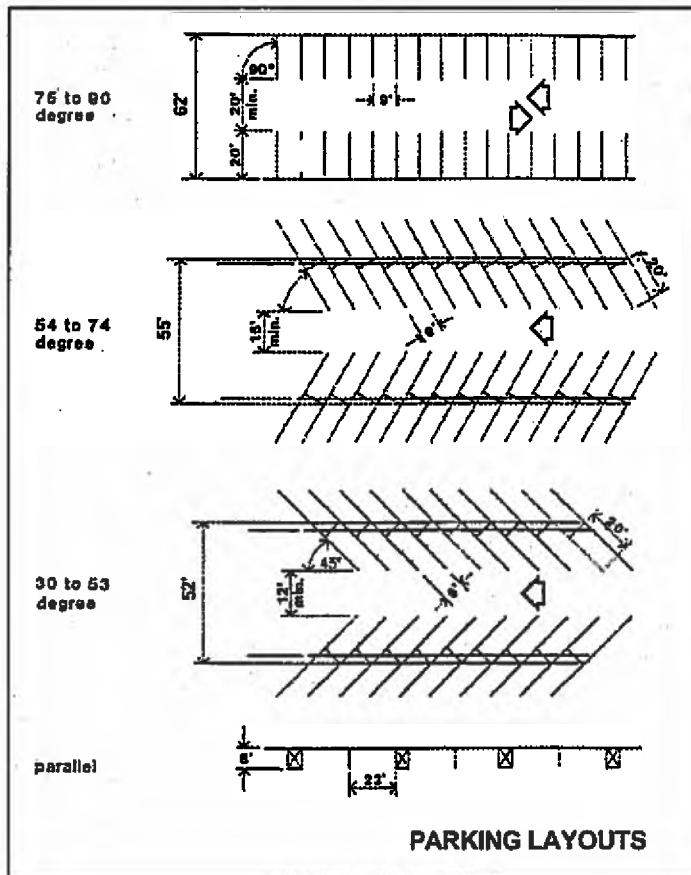
Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate the location of the proposed parking in relation to other uses on the site and on adjoining sites, the proposed means of ingress and egress, the number and dimensions of parking spaces, and the method of surfacing. Existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout shall also be shown.

Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a Certificate of Occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.



**B. LAYOUT REQUIREMENTS.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Patterns	Lane Width	Parking Space Width	Parking Space Length	Total width of one tier of stalls and maneuvering lane	Total width of two tiers of stalls and maneuvering lane
0°(Parallel Parking)	12 ft.	8 ft.	23 ft.	20 ft. (one way) 32 ft. (two way)	28 ft. (one way) 40 ft. (two way)
30° to 53°	12 ft.	8 ft.	20 ft.	32 ft.	52 ft.
54° to 74°	15 ft.	8 ft.	20 ft.	36 ft.	55 ft.
75° to 90°	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.



- C. **ACCESS.** All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.
- D. **INGRESS AND EGRESS.** Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a non-residential district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district.
- E. **SURFACING AND DRAINAGE.** The entire parking area, including parking spaces and maneuvering lanes, shall have an asphaltic or concrete surface; and shall be graded and drained so as to dispose of surface water that might accumulate on such area. No surface water from such parking area shall be permitted to drain onto adjoining private property or across a public sidewalk. Parking lots shall be continuously maintained with a hard, smooth, dust-proof surface at all times.
- F. **BUMPER STOPS.** Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.

In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.

- G. **STRIPING.** All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.
- H. **SCREENING.** All off-street parking areas, except those serving single and two-family residences, shall be screened.
- I. **PARKING SETBACKS.** All parking setbacks as required elsewhere by this Ordinance shall be maintained.
- J. **LANDSCAPING.** Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped with lawns, deciduous shrubs, evergreen plant material, and

ornamental trees. All such landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance.

- K. **LIGHTING.** All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded so as not to shine onto any adjacent properties or public right-of-ways.
- L. **SIGNS.** Accessory directional signs shall be permitted in parking areas in accordance to Chapter 15.
- M. **BUILDINGS.** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- N. **ADDITIONAL REQUIREMENTS.** In addition to the above requirements, parking areas shall comply with additional requirements or conditions that may be deemed as necessary by the Planning Commission for the protections of abutting properties in a residential district.
- O. **DELAY IN CONSTRUCTION.** In instances where the Board of Zoning Appeals determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather, but the Board of Zoning Appeals shall require a cash or surety bond in the anticipated amount of the parking lot construction costs.

#### **SECTION 17.07 OFF-STREET LOADING SPACE REQUIREMENTS.**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry cleaning establishments, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site.

A. Such spaces shall be provided as follows:

Gross Floor Area (In Square Feet)	Loading and Unloading Spaces	
	10'x 25' Space	10'x 65' Space
0 - 1,999	NA	NA
2,000 - 4,999	1	NA
5,000 - 19,999	NA	1
20,000 - 49,999	NA	2
50,000 - 79,999	NA	3
80,000 - 99,999	NA	4
100,000 - 149,999	NA	5
150,000 and over	NA	5*

\*One additional space for each fifty thousand (50,000) square feet of floor area in excess of one hundred fifty thousand (150,000) square feet.

- B. All loading spaces shall be located in the non-required rear yard and meet all minimum yard setback requirements for the district in which it is located in accordance with this Ordinance.
- C. Loading space areas shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- D. All loading spaces shall have a minimum of fourteen (14) foot high clearance.
- E. Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.
- F. No loading space shall be located closer than one hundred (100) feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six (6) feet in height.

- G. Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
1. Each business served shall have direct access to the central loading area without crossing streets or alleys.
  2. Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.
  3. No building served shall be more than 500 feet from the central loading area.
- H. The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

**CHAPTER 18**

**SITE PLAN REVIEW AND APPROVAL PROCEDURES**

**SECTION 18.01 PURPOSE**

The purpose of site plan review is to provide for consultation and cooperation between the land developer and the Township in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of adjacent properties. It shall be the further purpose of this section to insure that each proposed development and its components, appearance, and function is in compliance with this Ordinance, other Township Ordinances, and State and Federal laws. These purposes apply to development of previously unimproved sites; to the redevelopment, expansion, contraction or alteration of existing sites; and to the alteration or replacement of existing uses.

The site plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans. Through the application of the following provisions, the attainment of the Hamilton Township Master Plan will be assured, and the Township will develop in an orderly fashion.

**SECTION 18.02 WHEN A SITE PLAN AND REVIEW BY THE TOWNSHIP BOARD OR PLANNING COMMISSION IS REQUIRED.**

- A. **SITE PLAN REQUIRED.** Submission of a site plan shall be required for any of the following:
1. Any development or use for which submission of a site plan is required by provisions of this Ordinance,
  2. Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building, including alterations to construct or relocate pedestrian entrances. This requirement shall in no way permit the expansion of a nonconforming structure so as to become more nonconforming or increase the area already in violation of the provisions of this Zoning Ordinance,

3. Any proposal to change, replace with a different use, add or recommence a use on an existing site, including expansions in area, volume or intensity of an existing use unless otherwise permitted by this Ordinance,
4. All condominium developments (including "site condominium" developments),
5. Any proposal to build, expand or decrease an off-street parking lot; or to resurface an off-street parking lot when construction includes resurfacing, drainage alterations, or addition or replacement of base or sub-grade,
6. Any other change in use or development that could affect compliance with the standards set forth in this Ordinance,
7. Any proposal to create, expand or alter a use or structure which involves using, storing, or generating hazardous substances, and
8. Wireless communication facilities.

**B. SITE PLAN NOT REQUIRED.** Submission of a site plan shall not be required in the following circumstances:

1. Single and two-family dwelling units on individual lots,
2. Residential accessory buildings (for personal use) less than 1,200 sq. ft. in area in residential or agricultural zoning districts,
3. Agricultural accessory buildings located in agricultural zoning districts, and/or,
4. Uses requiring a Special Exception Use Permit unless determined by the Township Board or Planning Commission that a site plan is necessary to review the application.

**C. SITE PLAN REVIEW NOT REQUIRED BY THE TOWNSHIP BOARD OR PLANNING COMMISSION.** Uses with approved site plans or existing buildings that propose a change to ten percent (10%) or less of the building floor area or ten percent (10%) or less of the required parking spaces may be reviewed, approved and administrated by the Township Zoning Administrator. Such review and approval by the Township Zoning Administrator shall be duly reported to the

Planning Commission or Township Board at the next regularly scheduled meeting.

Uses or activities not requiring site plan review before the Planning Commission or Township Board shall include a sketch plan with accurate dimensions and shall be submitted to the Township Zoning Administrator for review showing the following information:

1. The parcel in question with dimensions and legal description,
2. Plan view of existing and proposed buildings and structures,
3. Existing and proposed building elevations,
4. Location of drives, public or private roadways, sidewalks, easements, and parking areas,
5. Location of existing or proposed utilities, water, and sewage systems,
6. Description of adjacent land uses,
7. Location of existing natural and man-made site features including wood lots, wetlands, streams, lakes, ponds, and similar environmental conditions,
8. A description of any change in grade or drainage system, except those changes to accommodate basement and driveway grading. All excavation and grade changes shall have been reviewed and approved by the Van Buren County Drain Commissioner's office when located within 500 ft. of a watercourse (drain, creek, stream, river, pond or lake), and
9. Any other information required by the Township Supervisor necessary to establish compliance with this and other ordinances of Hamilton Township.

### **SECTION 18.03 APPLICATION PROCESS**

Application for site plan review shall be made to the Township by filing of not less than five (5) copies of an application form and detailed site plan with the office of the Township Zoning



Administrator or the Township Clerk at least thirty (30) calendar days in advance of the regularly scheduled Planning Commission or Township Board meeting at which the plan is to be first considered. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township at the time the application is made.

The Township Zoning Administrator shall examine the site plan to determine that it contains all the necessary information. If it is incomplete, it shall be returned to the applicant. If it is complete and appears to comply with the requirements of the Zoning Ordinance, it shall be processed in accordance with this Ordinance.

**A. APPLICATION FORM.** Each submittal for site plan review shall be accompanied by a completed application form furnished by the Township and shall include the following information:

1. The applicant's name, address, and phone number,
2. The address and parcel number of the property,
3. A signed statement that the applicant is the owner of the property or has a legal financial interest in the property (i.e. purchase agreement),
4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s),
5. Project description, including the total project title, number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, and other pertinent information,
6. The gross and net acreage of all lots or parcels in the project,
7. Existing zoning classification, land uses, and structures on the subject parcel,
8. Name and address of developer (if different from the applicant), engineer, architect and/or land surveyor,
9. Project completion schedule/development phases, and

10. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

**B. SITE PLAN INFORMATION.** Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and all land within 300 feet of the site. The scale of the site plan shall be not less than 1 inch = 50 feet if the subject property is less than 3 acres, and 1 inch = 100 feet if three acres or more. If multiple sheets are used, each shall be labeled and the preparer identified. If there is an accurate site plan for the lot on file with the Township, the Township Zoning Administrator may waive the requirement for a site plan. The following information shall be included:

1. Name of development and general location sketch,
2. Name, address and phone number of owner(s), developer, engineer, architect and/or designer,
3. North arrow, scale, and date of original drawing and revisions,
4. The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, Registered Land Surveyor or Registered Professional Community Planner. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to an existing structure may be prepared by the builder or contractor,
5. A legal description and address of the property in question,
6. The area of the site in square feet and acres excluding all existing and proposed public rights-of-way,
7. The dimensions of all lots and subject properties, showing the relationship of the subject property to abutting properties, including lots across rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated,

8. Existing topographic elevations, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions. Indicate direction of drainage flow,
9. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands,
10. Location and type of existing vegetation,
11. Any significant site amenities and unique features,
12. Existing land uses and zoning classification of the subject parcels and adjacent parcels,
13. All required minimum setbacks from the existing or proposed right-of-way and from adjacent lots,
14. The location and dimensions (length, width, height) of all existing and proposed structures on the subject property,
15. The location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, alleys, and driveway locations to abutting streets,
16. With residential proposals, a site summary indicating the number and location of one bedroom units, two bedroom units, etc., typical floor plans with the square feet on floor areas; density computation, recreation facilities, open spaces, street names, and lot coverage,
17. With non-residential proposals, the number of offices, number of employees, the number of floors and typical floor plans and cross sections,
18. Proposed parking lots including layout and typical dimensions of parking spaces, number of spaces provided (including how computed per ordinance requirements) and type of surfacing,

19. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development,
20. Proposed traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site and the proposed location and dimensions of any required pedestrian sidewalks. Designate loading and unloading areas, barrier free access, any fire lanes, and carports,
21. Proposed finish grade of buildings, driveways, walkways, and parking lots,
22. Proposed type of building materials, roof design, projections, canopies and overhangs, roof-located mechanical equipment, such as: air conditioning, heating units and transformers that will be visible from the exterior,
23. Proposed water service including any proposed tap ins, main extensions or extensions for adequate fire hydrant spacing, and/or considerations for extensions to loop other public water mains,
24. Proposed sanitary sewer facilities and the location of all existing utilities, easements and the general placement of lines, manholes, tap-ins, pump stations, and lift stations,
25. Proposed storm water management plan including design of sewers, outlets (enclosed or open ditches), and retention or detention ponds. Sufficient data regarding site run-off estimates and off-site drainage patterns shall be provided to permit review of feasibility and permanency of drainage detention and/or retention as well as the impact on local surface and groundwater. The plan shall indicate location and status of any floor drains in structures on the site. The point of discharge for all drains and pipes should be specified on the site plan. All storm water drainage must be kept on site,
26. Locations of existing and proposed fire hydrants with reasonable access thereto for fire fighting, police and other emergency equipment,
27. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone, and steam.

28. Soil erosion and sedimentation control measures,
29. Detailed landscaping plan indicating location, types and sizes of material,
30. All proposed screening and free standing architectural walls, including typical cross-sections and the height above ground on both sides,
31. The dimensions and location of all signs, both wall signs and free-standing signs and of lighting structures and shielding,
32. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities,
33. Location and specifications for any existing or proposed outdoor or below ground storage facilities as well as any screening or containment structures or clear zones required by government authorities,
34. Easements for proposed public rights-of-way, utilities, access, shared access, and drainage,
35. Notation of any variances that have been or must be secured,
36. Notation of performance guarantees to be provided including amounts, types, and terms,
37. Statement that applicant will comply with State, Local and Federal laws, as applicable to the site or intended use,
38. Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or Township. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services, impact on historical or cultural resources, displacement of people or other uses as a result of the proposed development, alterations of the character of the surrounding area, effect on the Township's tax base and adjacent property values, or other data which the Township may reasonably deem necessary for adequate review,

39. The size, location and description of any proposed interior or exterior areas or structures for storing, using, loading or unloading of hazardous substances. A listing of types and quantities of hazardous substances which will be used or stored on-site in quantities of hazardous substances which will be used or stored on-site in quantities greater than 100 kilograms or 25 gallons per month,
40. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup,
41. Plans depicting existing and proposed building elevations,
42. For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated. A detailed site plan need be submitted only for that portion of the property for which a building permit will be applied for; a general site plan which clearly indicates the overall project intent may be submitted for the remainder of the site, and
43. Building elevations of the proposed structure(s) from each direction shall be shown.

#### **SECTION 18.04 CRITERIA FOR GRANTING SITE PLAN APPROVAL**

Each site plan shall conform to all applicable provisions of this Ordinance. The following criteria shall be used by the Planning Commission as a basis upon which site plans will be reviewed and approved. The Township shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:

- A. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
- B. The site plan shall comply with the zoning district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in this Ordinance.

- C. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
- D. The site plan shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users. Where landscaping is provided, there must be provision for maintaining all plantings through a regular program of fertilizing, irrigating, pruning, mowing and replacing all dead and diseased materials.
- E. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- F. There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to insure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
- G. All streets shall be developed in accordance with the Township Subdivision Regulations and the Van Buren County Road Commission design specifications. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a Township recognized source of reference. The applicant may be required to dedicate adequate land and improvements to the Township in order to achieve access which is safe and convenient.
- H. Special attention shall be given to proper site drainage. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjacent lots or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm-water facilities, and the prevention of erosion and dust. In addition, special attention shall be given to the installation of appropriate fencing and other safety measures adjacent to and surrounding stormwater retention and detention areas. Surface water on all paved areas shall be collected at intervals so that it will not

obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Where possible and practical, drainage design shall recognize existing natural drainage patterns. Final grades may be required to conform to existing or future grades of adjacent properties.

- I. All off-street parking, loading and unloading areas and outside storage areas, including areas for storage of trash, that face or are visible from adjacent residential districts or public thoroughfares, shall be screened by walls, fencing or landscaping of effective height as required within the landscape provisions of this Ordinance. Building entrances designed for vehicular access shall not access any building through the front yard of a development.
- J. Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
- K. Any use permitted in any zoning district must comply with all applicable requirements of state, local, and federal statutes including health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, floodplains, wetlands, and requirements of the State Fire Marshal. Site plan approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
- L. An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the ground water strata; to act as a natural drainage system and solve storm water drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.
- M. It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in



keeping with sound site development standards of the Township and with the Township Master Plan.

- N. A major objective shall be to retain, enhance and protect the quality, value and privacy of all residential land uses.
- O. All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.
- P. All sites shall be designed to comply with State and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.

**SECTION 18.05 REVIEW AND APPROVAL.** Site plans shall be reviewed in accordance with the following procedures:

- A. **DEPARTMENT REVIEW.** The Township may secure comments from the Building Inspector, Van Buren County Road Commission, Sheriff's Department, and the Township's Consultant Engineer and/or Planner, and forward all comments to the Planning Commission for its review. The Planning Commission shall review the plans and may solicit further comments from an Engineer, Planning Consultant and other agencies, groups or persons, as appropriate.
- B. **SITE PLAN APPROVAL.** The Township Planning Commission is hereby authorized to review and approve, with or without conditions or to review and deny approval, all site plans submitted under this Ordinance. Guidelines for consideration of each case shall follow the zoning ordinance and other applicable ordinances. When the Planning Commission approves a site plan with conditions from the applicant, the Township Zoning Administrator shall require a revised site plan with a revision date, indicating said conditions on the site plan.
- C. **RECORD OF ACTION.** Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the Hamilton Township Planning Commission. A final copy of the approved site plan shall be so marked and placed on file with the Township Clerk's office.
- D. **FINAL SITE PLAN.** When a site plan approval is required, no building permit shall be issued until three copies of a final site plan, which includes all conditions

of approval, a revision date and notation of all variances has been signed by the Planning Commission, the Township Zoning Administrator or their designees. Prior to issuance of a permit, one copy of the final signed plan shall be filed with each of the following: Township Clerk, Building Inspector or Zoning Administrator and the Applicant.

#### **SECTION 18.06 ISSUANCE OF BUILDING PERMIT AFTER SITE PLAN APPROVAL.**

Complete construction plans including component phases, shall be submitted for review by the Building Inspector and, as applicable, the Township Engineer. Upon review and finding that the construction plans meet with the requirements of site plan approval and other applicable ordinances of the Township, the Building Inspector shall issue a building permit for said construction.

Site plan approval shall be valid for one year from the date of approval. If an applicant does not obtain a building permit within one year after site plan approval, the site plan approval expires and is of no force or effect, unless extended by a vote of the Planning Commission. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner and/or applicant.

#### **SECTION 18.07 MODIFICATION OF AN APPROVED SITE PLAN**

Once site plan approval has been granted by the Planning Commission, changes to the approved site plan shall require a re-submission and payment of the required application fee.

#### **SECTION 18.08 CONFORMITY TO APPROVED SITE PLAN REQUIRED**

Following approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Upon completion of the installation of required improvements as shown on the approved site plan, the property owner/applicant shall submit to the Township Zoning Administrator two copies of an "as built" site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building. A Certificate of Occupancy shall be withheld by the Building Official in any case where the site plan and major conditions as approved by the Planning Commission have not been complied with. Any minor variations may be approved by the Building Official, and shall be reported within 30 days to the Planning Commission after the issuance of Certificate of Occupancy.

**CHAPTER 19**

**SPECIAL EXCEPTION USE PERMIT REVIEW PROCEDURES**

**SECTION 19.01 SPECIAL EXCEPTION USE PERMIT REVIEW**

The Township Board shall have the following specific powers and duties concerning special exception use approvals.

- A. **STATEMENT OF INTENT.** The procedures and standards set forth in this Chapter are intended to provide a consistent and uniform method for review of proposed plans for special exception uses.

In hearing and deciding upon special exception use permit requests, the Township Board shall base its actions on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Township into districts, within each district the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special exception uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

Upon mutual consent between the Township Board and the Planning Commission, an application for a special exception use permit may be referred to the Planning Commission for approval, in which case all of the procedures shall be transferred from the Township Board to the Planning Commission.

- B. **APPLICATION.** The application for special exception use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following:
1. The Chapter of this Ordinance under which the special exception use is sought.

2. A site plan that shall include all the information required by this Ordinance in Chapter 18, or a sketch at the discretion of the Township Board or Planning Commission.
3. A letter describing the proposed use of the property.
4. Other information that the Township Board or Planning Commission may reasonably deem necessary for adequate review.

The application shall be submitted by the owner having an interest in land for which the special exception use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

- C. **NOTICE OF HEARING.** Upon receipt of a complete application, site plan, and attachments, if any, the Township Board or Planning Commission shall schedule a public hearing on the request. The Notice of Public Hearing on the application shall be published in a newspaper that circulates in the Township not less than fifteen (15) days before the date the application will be considered; and such notice shall be sent not less than fifteen (15) days before said Hearing date by first class mail to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to occupants of all structures within three hundred (300) feet of the property boundary regardless of whether the property or occupant is located in the zoning jurisdiction. The notice shall contain:

1. A description of the nature of the special exception use request under the specific section of this Ordinance.
2. A legal description and/or address and/or an approximate sketch of the property which is the subject of the request.
3. A statement of when and where the public hearing will be held to consider the request.
4. A statement as to when and where written comments will be received concerning the request.

**D. TOWNSHIP BOARD OR PLANNING COMMISSION**

**DETERMINATION.** Following the public hearing, the Township Board or Planning Commission shall review the application for the special exception use permit, together with the public hearing findings and reports and recommendations of Township staff, consultants and other reviewing agencies. The Township Board Planning Commission is authorized to deny, approve, or approve with conditions, requests for special exception use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to the approval.

**E. STANDARDS FOR GRANTING SPECIAL EXCEPTION USE**

**APPROVAL.** Approval of a special exception use permit shall be based on the determination that the proposed use will comply with all requirements of this Ordinance, including site plan review criteria set forth in Chapter 18.04. In addition, the following standards shall be met:

1. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
2. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the Township as a whole.
3. The proposed special exception use shall be compatible with and in accordance with the general principles and future land use configuration of the Township Master Plan and shall promote the intent and purpose of this Ordinance.
4. The proposed use shall be designed, constructed, operated and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
  - a. The size, placement, and materials of construction of the proposed use in relation to surrounding uses.
  - b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.

- c. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
  - d. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - e. The hours of operation of the proposed use. Approval of a special exception land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
5. The location of the proposed special exception use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:
- a. Proximity and access to major thoroughfares.
  - b. Estimated traffic generated by the proposed use.
  - c. Proximity and relation to intersections.
  - d. Location of and access to off-street parking.
  - e. Required vehicular turning movements.
  - f. Provision for pedestrian traffic.
6. The proposed special exception use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
7. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.

8. The proposed use shall be compatible with the natural environment.
- F. **RECORDING OF TOWNSHIP BOARD OR PLANNING COMMISSION ACTION.** Each action taken with reference to a special exception land use proposal shall be duly recorded in the minutes of the Township Board or Planning Commission. The minutes shall record the findings of fact relative to each special exception land use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.
- G. **EFFECTIVE DURATION OF SPECIAL EXCEPTION USE APPROVAL.** Special exception use approvals shall run with the owner/operator granted permission and may be issued for specified periods based upon the impacts of the proposed use to surrounding property. The sale, transfer or conveyance of the property on which the special exception land use is located shall nullify the special exception use approval. Any new proposed owner or operator shall be required to submit and be approved by the Township Board or Planning Commission for a new special exception use permit in order to continue said operation or activity.
- H. **AMENDMENTS TO SPECIAL EXCEPTION.** When an application is received to expand or change the use, traffic pattern, or other elements of a special exception use, the application shall be subject to the same procedures followed for an original special exception approval of land use. The denial of an application to amend an existing special exception use permit shall not nullify or cause to prohibit the applicant from continuing to operate in compliance/conformance within the specifications of the original (existing) special exception use permit approval.
- I. **REVOCAION OF SPECIAL EXCEPTION USE APPROVAL.** Approval of a special exception use permit and site plan may be revoked by the Township Board or Planning Commission if construction is not in conformance with the approved plans. In such a case, the Zoning Administrator shall place the special exception use on the agenda of the Township Board or Planning Commission for consideration, and give written notice to the applicant at least fifteen (15) days prior to the meeting. The applicant shall be given the opportunity to present information to the Township Board or Planning Commission and answer questions. The Township Board or Planning Commission may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.

**SECTION 19.02 PERFORMANCE GUARANTEES**

- A. **PURPOSE.** To insure compliance with the provisions of this Ordinance and any conditions imposed thereunder, the Township Board or Planning Commission or Zoning Board of Appeals may require that a performance guarantee be deposited with the Township to insure the faithful completion of improvements, in accordance with the provisions of the Township Zoning Act, Public Act 184 of 1943, as amended. Improvements for which the Township may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, surfacing of drives, parking, and acceleration/deceleration lanes, traffic control devices, sewer or water line expansion, storm water retention areas and land reclamation activities.
- B. **SCOPE OF REQUIREMENT.** The performance guarantee can apply only to those specific features and actions which the Township Board or Planning Commission or Zoning Board of Appeals considers necessary to protect natural resources or the health, safety, or welfare of residents, project users, or the general public. A performance guarantee may not be required for the entire project. The guarantee is limited to those project components specifically designated by the Township Board or Planning Commission or Zoning Board of Appeals.
- C. **GENERAL REQUIREMENTS.** A performance guarantee shall be required by the Township Board or Planning Commission on the applicable portion(s) of a site plan under any of the following circumstances:
1. To meet the costs of improvements required to be made by the applicant to public facilities owned by the Township as a condition of site plan approval.
  2. To ensure the completion of the common elements of site plan affecting two or more parties.
  3. To ensure the completion of those portions of a site plan which will not be completed by the applicant prior to a request for occupancy.

The Township Board or Planning Commission may require a performance guarantee on any other specific improvement when determined by resolution that the guarantee is necessary to protect the natural resources of the Township or the health, safety, or welfare of residents, project users, or the general public.



**D. GENERAL CONDITIONS:**

1. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. No building permit or related Township permit shall be issued unless the Zoning Administrator is satisfied that the guarantee is in full compliance with this Section.
2. The performance guarantee shall be in the form of:
  - a. A cash deposit or deposit by certified check drawn on a bank authorized to do business in the State of Michigan, or
  - b. An irrevocable letter of credit issued on behalf of the Township by a bank authorized to do business in the State of Michigan, or
  - c. A surety bond in a form and manner acceptable to the Township Attorney. The costs of the review of a surety bond by the Township Attorney shall be paid by the applicant as part of the issuance of a permit.
3. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements associated with a project for which site plan approval or zoning variance has been obtained. Accordingly, the applicant shall provide an itemized listing of estimated costs and a proposed time schedule to complete all of the improvements determined to require a performance guarantee. The Zoning Administrator shall review the submitted costs for reasonableness and shall determine an accurate amount for the performance guarantee. In determining the amount, the Zoning Administrator may consider signed contracts or sub-contracts supplied by the applicant or the Zoning Administrator may secure or require that the applicant secure a sealed statement from a licensed architect or engineer verifying the estimates.
4. Cash funds or a certified check made payable to the Township shall be deposited by the Township into an interest bearing account in a financial institution with which the Township regularly conducts business.
5. In the case of a guarantee exceeding \$2000, and by request of the applicant, the guarantee may be released to the applicant in an amount

proportional to the work completed on various elements, provided that a minimum of ten percent (10%) shall be retained on each element until the satisfactory completion of the entire project. The amount of work completed shall be based upon an inspection and determination by the Zoning Administrator.

6. An amount not to exceed the actual cost of the installation of landscape materials may be retained by the Township for at least one (1) year following the installation of said materials to insure proper maintenance and, if necessary, replacement. This amount shall be released to the applicant upon certification by the Zoning Administrator that all landscape materials are being maintained in good condition.
7. The unexpended balance of a performance guarantee, including interest accrued, shall be returned to the applicant following inspections by the appropriate Township officials and a positive determination by the Zoning Administrator that the required improvements have been satisfactorily completed and that all other requirements of this Chapter are met.

**E. UNSATISFACTORY COMPLETION OF IMPROVEMENTS.** When required improvements are not installed or maintained within the time stipulated or are not completed in accordance with the standards set forth within this Ordinance, or as agreed upon with the applicant, the Township Board or Planning Commission or the Zoning Administrator may order that the improvements be completed by the Township or by an independent contractor, or may order that the site be returned to its original condition.

The Zoning Administrator shall order the completion of the improvements and so notify the applicant by certified mail at least thirty (30) calendar days prior to the undertaking of completion. During this time period, the applicant may seek an order from a court of competent jurisdiction to prevent the action by the Township.

All costs incurred by the Township for the completion of the improvements or the restoration of the site, including direct administrative costs, shall be assessed against the performance guarantee including any interest accrued on any funds deposited in escrow.

- F. **SUBDIVISION IMPROVEMENTS.** This Chapter shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited with the Township by the applicant pursuant to the Subdivision Control Act (P.A. 288 of 1967, as amended).

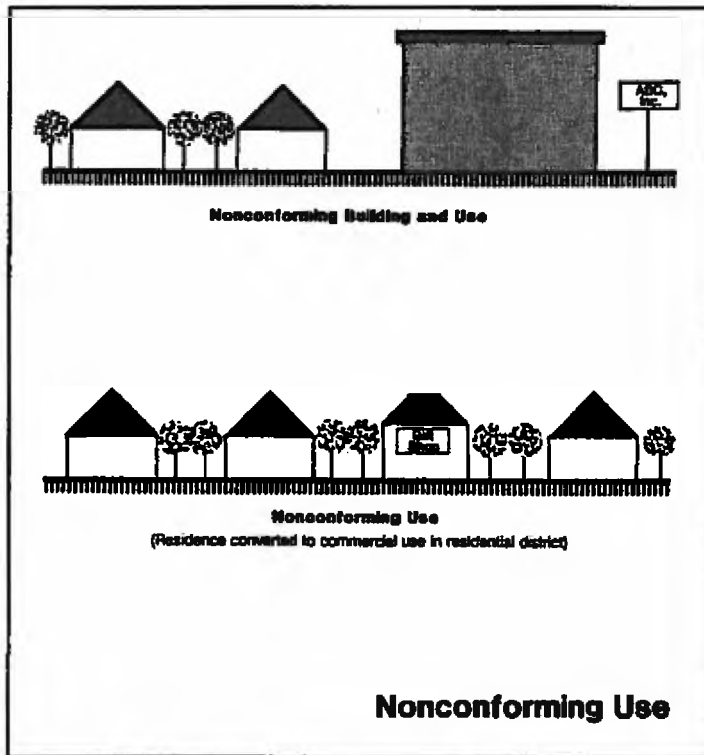
**CHAPTER 20**

**NONCONFORMING USES AND STRUCTURES**

**SECTION 20.01 INTENT**

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the ordinance or amendment. Such nonconformities are declared by this Ordinance to be incompatible with the current or intended use of land in the district in which they are located.

Accordingly, the purpose of this Section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.



**SECTION 20.02 NONCONFORMING USES OF LAND**

A nonconforming use of land occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.

Where, on the effective date of this Ordinance, or the effective date of an amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. **EXPANSION OF USE.** No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. **MOVING.** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. **DISCONTINUATION OF USE.** If such nonconforming use of land ceases for any reason for a period of more than twelve consecutive (12) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. In applying this Section to seasonal uses, the time during the off-season shall not be counted, provided that the off-season time for such uses is reported to the Township.

**SECTION 20.03 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE**

A nonconforming structure exists when the height, size, minimum floor area, or lot coverage of a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **EXPANSION OF STRUCTURE.** Structures, or uses nonconforming by reason of height, yards, area, or parking provisions may be extended, altered or modernized

provided that no additional encroachment of the height, yard, area or parking provisions are occasioned thereby, unless a Variance is granted.

- B. **MOVING.** Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.

#### **SECTION 20.04 ALTERATIONS, REPAIRS AND MAINTENANCE**

- A. **PROTECTING PUBLIC SAFETY.** Repairs or maintenance deemed necessary by the Building Inspector to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Inspector, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
  
- B. **DAMAGE BY FIRE OR OTHER NATURAL DISASTER.** Any nonconforming structure or building, but not a nonconforming use, that is damaged by fire, flood, wind or other natural means may be restored, and the conforming use or occupancy of such building or structure, or part thereof, which existed at the time of such destruction may be continued or resumed, provided that such restoration is started within a period of one year after the time of such damage or event and is diligently prosecuted to completion. A one-time extension of not more than one year may be granted upon review and approval of the Planning Commission. The granting of an extension will be based upon the applicant's capability to complete the project within the allowed time frame.
  
- C. **ENLARGEMENT & EXTENSION BEYOND PRESENT BUILDING CONFINES.** No nonconforming use of land, except residential dwellings, shall hereafter be enlarged or extended beyond its present building confines. A nonconforming use of land may however, be expanded or extended within its present building confines. Furthermore, a residential nonconforming use may be expanded or extended up to twenty-five (25) percent of the ground floor area of the existing residence.

**SECTION 20.05 TOWNSHIP REMOVAL OF NONCONFORMING USES AND STRUCTURES.**

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to Section 24, Public Act 184 of 1943, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

**SECTION 20.06 CHANGE IN TENANCY OR OWNERSHIP**

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

**SECTION 20.07 ENCUMBERING LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot necessary for compliance with the provisions of this Ordinance in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building, structure, or use, shall through sale or otherwise again be used as a part of the lot required in connection with any other building or structure or use.

**SECTION 20.08 UNLAWFUL NONCONFORMITIES**

No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

**SECTION 20.09 RECORDING OF NONCONFORMING USES AND STRUCTURES**

The Township shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this Ordinance. Failure on the part of a property owner to provide the Township with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

**SECTION 20.10 PLANS ALREADY FILED**

Where plans for a building have been filed which would conform with the zoning regulations then effective, but not with subsequently enacted regulations, and where a building permit for such building has been issued, such building may be erected provided construction is begun within three (3) months and diligently pursued to completion.



## **CHAPTER 21**

### **ZONING BOARD OF APPEALS**

#### **SECTION 21.01 CREATION**

There is hereby created, pursuant to Act 110 of the Public Acts of 2006 the Michigan Zoning Enabling Act, the Hamilton Township Zoning Board of Appeals referred in this Ordinance as the "Zoning Board of Appeals." The Zoning Board of Appeals shall be constituted and appointed as provided by Michigan Zoning Enabling Act and shall be comprised of five (5) members. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member may be unable to attend one or more meetings. An alternate member may also be called to serve for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

#### **SECTION 21.02 INTENT**

The purpose of this Chapter is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

#### **SECTION 21.03 ADOPTION OF RULES AND PROCEDURES**

The Zoning Board of Appeals shall establish fixed rules and regulations governing its procedures, meetings, operations, and actions. Said rules shall be made available to the public and shall be in conformance with this Ordinance and the Michigan Zoning Enabling Act.

#### **SECTION 21.04 JURISDICTION OF THE ZONING BOARD OF APPEALS**

- A. **GENERAL AUTHORITY:** The ZBA shall have the authority to act on those

matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have the authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

- B. ADMINISTRATIVE REVIEW:** The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board or commission in carrying out or enforcing any provisions of this Ordinance.
- C. INTERPRETATION:** The ZBA shall have authority to hear and decide appeals or requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map and boundary interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations, which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences, which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance. Such authority shall include interpretation of whether a use is permitted in a given zone, or determination of off-street parking and loading requirements for any use not specifically listed.
- D. VARIANCES:** The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards:

1. The ZBA may grant a requested “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
    - a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance unnecessarily burdensome.
    - b. The variance will do substantial justice to the applicant, as well as to other property owners.
    - c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
    - d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
    - e. The problem and resulting need for the variance has not been self-created by the applicant.
  2. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.
- E. **CONDITIONS:** The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to achieve any of the following:
1. To insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

2. To protect the natural environment and conserve natural resources and energy.
3. To insure compatibility with adjacent uses of land.
4. To promote the use of land in a socially and economically desirable manner.
5. Conditions imposed shall meet the following requirements:
  - a. Be designed to protect natural resources, the health, safety and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - b. Be related to the valid exercise of the police power, and purposes that are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, for the land use or activity under consideration, and be necessary to insure compliance with those standards.
6. Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case. The breach of any such conditions shall automatically invalidate the permit granted.

#### **SECTION 21.05 APPLICATION AND NOTICES**

- A. **APPLICATION:** All applications to the ZBA shall be filed with the Township Zoning Administrator, on forms provided by the Township, and shall be accompanied by the applicable fee established by Resolution of the Township Board. Applications shall include a completed application form, fee, all plans, studies and other information and data to be relied upon by the applicant.

- B. SITE PLAN:** A site plan shall be required with all variance requests. The plan shall be to scale and include all property lines and dimensions; setbacks; bearings of angles correlated with the legal description and a north arrow; all existing and proposed structures and uses on the property, and the dimensions of the structures and their dimensioned locations; and lot area calculations necessary to show compliance with the regulations of this Ordinance. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Chapter 18 shall satisfy the requirements of this section.

The ZBA shall have the authority to require a land survey prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to insure accuracy of the plan.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

- C. APPLICATION INVOLVING AN APPEAL OF ADMINISTRATIVE ORDER:** In a case involving an appeal from an action of an administrative official or entity, there shall be transmitted to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- D. CONSENT OF PROPERTY OWNER REQUIRED:** Application to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question, acknowledged by the owner(s) on the application. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser, and also the consent of the seller in a Preliminary Sales Agreement.
- E. NOTICE OF HEARING:** Upon receipt of a completed application to the ZBA, site plan and attachments, if any, and the applicable fee, the ZBA shall schedule a Public Hearing on the application. The Notice of Public Hearing on the application shall be published in a newspaper that circulates in the Township not less than fifteen (15) days before the date of the Public Hearing; and such notice shall be sent not less than fifteen (15) days before said hearing by first class mail to the applicants, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to occupants of all structures within 300 feet of the property boundary regardless of whether the property or occupant is located in the zoning jurisdiction.

The Notice shall contain:

1. A description of the nature of the application to the ZBA.
  2. A legal description and/or address and/or approximate sketch of the property which is the subject of the hearing.
  3. A statement of when and where the public hearing will be held to consider the application.
  4. A statement as to when and where written comments will be received concerning said application.
- F. **STAY OF PROCEEDINGS:** An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.
- G. **DECISION BY THE ZONING BOARD OF APPEALS:** The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the enforcement of this Ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this Ordinance, or to grant a variance from the terms of this Ordinance. A decision shall be made upon each case within sixty (60) days after a request or appeal has been filed with the ZBA unless additional time is agreed upon with the parties concerned.

#### **SECTION 21.06 DISPOSITION AND DURATION OF APPROVAL**

- A. **ZBA POWERS:** The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a

case for further proceedings and decisions, with or without instructions

- B. **DECISION FINAL:** A decision by the ZBA shall not become final until it certifies its decision in writing, or approves the minutes of its decision. Unless the ZBA shall find that the immediate effect of such order is necessary for the preservation of property or personal rights or public safety and shall so certify on the record. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision and shall be served upon the parties concerned.
  
- C. **PERIOD OF VALIDITY:** Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.
  
- D. **RECORD OF PROCEEDINGS:** The secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be the responsibility of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed in the Township Hall and shall be public records.
  
- E. **APPEAL OF ZBA DECISION:** Appeal of a ZBA decision may be taken to Van Buren County Circuit Court at the discretion of the applicant and further appealed therefrom to the Court of Appeals. An appeal under this Section shall be filed within thirty (30) days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision.
  
- F. **NEW APPLICATION FOR VARIANCE:** If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a

period of 365 days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

- G. **SITE PLAN REQUIREMENTS:** If an application or appeal to the Board of Appeals involves a development project, which requires a recommendation of site plan approval by the Township Board or Planning Commission, the applicant or appellant shall first apply for site plan approval as set forth in Chapter 18, "Site Plan Review". The Township Board or Planning Commission shall review the site plan and shall determine the layout and other features required before granting a recommendation of approval of the site plan. The Township Board or Planning Commission shall then transmit a copy of the site plan and the Township Board's or Planning Commission's findings thereon to the Zoning Board of Appeals.



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**CHAPTER 22**

**ZONING ADMINISTRATION, CERTIFICATE OF ZONING APPROVALS  
AND BUILDING PERMITS**

**SECTION 22.01 RESPONSIBILITIES.**

The Township Supervisor, or his/her duly authorized representative as specified in this Chapter, is hereby charged with the duty of enforcing the provisions of this Ordinance. Furthermore, administrative responsibilities are vested in the following Township entities:

- A. Township Board
- B. Planning Commission
- C. Zoning Board of Appeals
- D. Zoning Enforcement Officials, which shall include the Township Supervisor and his/her duly authorized assistants or representatives.

The purpose of this Chapter is to set forth the scope of authority of these entities.

**SECTION 22.02 TOWNSHIP BOARD**

The Township Board shall have the following responsibilities and authority pursuant to this Ordinance.

- A. **ADOPTION OF ZONING ORDINANCE AND AMENDMENTS.** In accordance with the intent and purposes expressed in the Preamble to this Ordinance, and pursuant to the authority conferred by Act 110 of the Public Acts of 2006, the Michigan Zoning Enabling Act (MCL 125.3101 et seq.), the Township Board shall have the authority to adopt this Ordinance, any amendments to this Ordinance which have been previously considered by the Planning Commission or at a hearing, or as decreed by a court of competent jurisdiction.

- B. **SETTING FEES.** The Township Board shall, by Resolution, have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the Township Board to set a fee for a specific permit or application, the Township Supervisor shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
  
- C. **APPROVAL OF PLANNING COMMISSION MEMBERS.** In accordance with Act 110 of the Public Acts of 2006, the Michigan Zoning Enabling Act, the Township Supervisor with the approval of the Township Board shall appoint members of the Planning Commission.

### **SECTION 22.03 TOWNSHIP PLANNING COMMISSION**

- A. **CREATION.** The Township Planning Commission is created pursuant to Michigan Public Act 168 of 1959, as amended, (MCL 125.321) Township Planning. The Planning Commission shall have all the powers and duties provided pursuant to Act 110 of the Public Acts of 2006, the Michigan Zoning Enabling Act (MCL 125.3101).
  
- B. **JURISDICTION.** The Planning Commission shall discharge the following duties pursuant to this Ordinance:
  - 1. **FORMATION OF ZONING ORDINANCE AND AMENDMENTS.** The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the Township Board.
  
  - 2. **SITE PLAN REVIEW.** The Planning Commission shall be responsible for review of applications for site plan approval in accordance with Chapter 18. As provided for in Chapter 18, the Planning Commission shall be responsible for making a determination to grant approval, approval subject to revisions, or denial of submitted site plans.
  
  - 3. **SPECIAL EXCEPTION LAND USE REVIEW.** The Planning Commission or Township Board shall be responsible for holding hearings and review of all

applications for special exception land use approval in accordance with Chapter 19 of this Ordinance to grant approval, approval subject to conditions, or denial of approval of a submitted special land use application.

4. **PLANNED UNIT DEVELOPMENT REVIEW.** The Planning Commission or Township Board shall be responsible for holding hearings and review of all applications for planned development in accordance with Chapter 10. The Planning Commission or Township Board shall be responsible for granting approval, approval with conditions, or denial of a Planned Unit Development proposal.

#### **SECTION 22.04 ZONING BOARD OF APPEALS**

The Zoning Board of Appeals shall act on all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning districts map. The Zoning Board of Appeals shall also hear and decide appeals from any order, requirements, decision, or determination made by an administrative official or body charged with enforcement of this Ordinance; and shall hear and decide matters referred to it or upon which it is required to pass under this Ordinance. The Zoning Board of Appeals shall not have the power to alter or change zoning district classification of any property. The creation responsibilities, and limitations of power of the Zoning Board of Appeals are further specified in Chapter 20 of this Ordinance.

#### **SECTION 22.05 ZONING ENFORCEMENT OFFICIALS**

- A. **ESTABLISHMENT OF ENFORCEMENT OFFICIALS.** As specified throughout this Ordinance, certain actions necessary for the implementation of this Ordinance shall be administered by the Township Supervisor or his/her duly authorized assistants or representatives. In carrying out designated duties, enforcement officers shall administer the Ordinance precisely as it is written and shall not make changes or vary the terms of this Ordinance.
- B. **RESPONSIBILITIES OF THE ZONING ADMINISTRATOR.** The Zoning Administrator shall be appointed by the Township Board and shall serve under the direction of the Township Supervisor. The Township Zoning Administrator may have the following responsibilities:

1. Provide citizens and public officials with information relative to this Ordinance and related matters.
2. Assist applicants in determining the appropriate forms and procedures related to site plan review, zoning, and other zoning matters.
3. Review all applications for site plan review, special land use review, planned development proposals, and take any action required as outlined in this Ordinance.
4. Forward to the Planning Commission all applications for site plan review, special exception land use review, planned unit development proposals, petitions for amendments to this Ordinance, and other applications that must be reviewed by the Planning Commission.
5. Forward to the Zoning Board of Appeals all materials related to applications for appeals, variances, or other matters on which the Zoning Board of Appeals is required to act.
6. Forward to the Township Board all recommendations of the Planning Commission concerning matters on which the Township Board is required to take final action.
7. Periodically report to the Planning Commission on the status of Township zoning and planning administration.
8. Maintain up-to-date Zoning Map, Zoning Ordinance text, and office records by recording all amendments and filing all official minutes and other documents in an orderly fashion.
9. Maintain a record of all nonconforming uses, structures, and lots existing on the effective date of this Ordinance, and update this record as conditions affecting the nonconforming status of such uses or structure changes.
10. Perform other related duties, as specified by the Township Administrator.

- C. **CONFORMANCE WITH THIS ORDINANCE.** It shall be unlawful for the Zoning Administrator to approve any plans or issue any zoning permits or certificates of occupancy until he has inspected such plans in detail and found them to conform with this Ordinance.

**SECTION 22.06 CERTIFICATE OF ZONING APPROVAL, BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

It shall be unlawful to hereafter commence or to proceed with the excavation for foundation, erection, construction, alteration, enlargement, extension or moving of any building or structure, or any part thereof, or to change the use of a building, premises or land or a part thereof to a different use or zoning classification until a Certificate of Zoning Approval shall have been issued by the Township Zoning Administrator.

- A. Applications for a Certificate of Zoning Approval shall be made in triplicate and in writing to the Township Zoning Administrator on forms provided by said Township and shall:
1. Be signed by the owner of said premises or his qualified agent;
  2. Contain a legal description of said premises and the address of same;
  3. Set forth the proposed use of said premises and buildings situated thereon;
  4. Certify that all provisions of this Ordinance and all other applicable laws and requirements will be complied with;
  5. Contain a site plan showing location and size of premises; dimensions and location of proposed buildings and alterations and additions thereto and other buildings on said premises; set back dimensions; signs; parking areas and such other data upon which the applicant intends to rely upon to obtain said Certificate;
  6. Be accompanied by such permit fee, as the Township Board shall establish from time to time by Resolution.
- B. The Zoning Administrator shall, within fifteen (15) days after receipt of said application, make a determination whether the building, alteration or addition thereto or proposed use of a building or land, conforms with all the provisions of this Ordinance, and if said Official so finds, a Certificate of Zoning Approval shall be

issued. If the building or proposed use of a building or land is nonconforming said Certificate of Zoning Approval shall be denied. Said denial shall specifically state wherein the building or proposed use of a building or land differs from this Ordinance. One (1) copy of the application, with proper notations thereon, including approval or denial and the date thereof shall be filed with the Township Clerk as a record, one (1) copy shall be retained by the Zoning Administrator, and one (1) copy shall be returned to the applicant.

- C. Certificate of Zoning Approval shall be non-transferable and shall expire by limitation six (6) months after date of issue if no construction is commenced. A Certificate of Zoning Approval may be extended, after showing cause, for one (1) or more extensions of time, for periods not exceeding ninety (90) days for each extension. A Zoning Approval must be obtained prior to application for a Building Permit.
- D. No structure shall be erected, altered, moved or excavation started until the State Building Inspector shall have issued a building permit for such erection or alteration.
- E. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged wholly or partly until a Certificate of Occupancy has been issued by the State Building Inspector for that premises certifying that the structure or use complies with the provisions of this Ordinance and all other applicable laws or regulations. Such occupancy permit shall be granted or denied within thirty (30) days from the date that a written application for such certificate is filed with the State Building Inspector.
- F. Prior to the issuance of such Certificate of Occupancy, the State Building Inspector shall be satisfied that the building to be erected or that the alterations to be done shall comply in all respects with the building and health laws and ordinances and the provisions of these regulations. It shall be the duty of the applicant for such Certificate of Occupancy or Building Permit to furnish to the State Building Inspector such plans or other information as the building inspector may require in order to be reasonably satisfied that the building to be erected or altered will so comply. Fees charged for Certificate of Zoning Approval shall be paid to Hamilton Township, and fees charged for a Building Permit and Certificate of Occupancy shall be paid to the State of Michigan or State Building Inspector.

## **CHAPTER 23**

### **AMENDMENTS TO THE ZONING ORDINANCE AND MAP**

#### **SECTION 23.01 STATEMENT OF INTENT**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the Township, this Ordinance shall not be amended to rezone an area or to extend the boundary of an existing district, or to change the regulations and restrictions thereof, except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Township generally. Such amendment to this Ordinance may be initiated by any person, firm, or corporation by filing an application with the Zoning Administrator; by motion of the Township Board; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure. The procedures for amending this Ordinance shall be in accordance with Act 110 of the Public Acts of 2006, as amended.

#### **SECTION 23.02 AMENDMENT PROCEDURE**

- A. **APPLICATION.** Applications for amendments to this Ordinance shall be filed with the Zoning Administrator on an appropriate form provided by the Township and accompanied by the required fee. All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
  2. The nature and effect of the proposed amendment.
  3. If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area affected, the present zoning classification of the land, the names and addresses of the owners of all land and the legal descriptions of their land within the area to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.

4. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in the municipality that make the proposed amendment reasonably necessary for the protection of the public health, safety, and general welfare of the residents of the township.
6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

**B. RECEIPT OF APPLICATION.** The Zoning Administrator, upon receipt of an application to amend the Ordinance, shall review the application for completeness and refer same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the proposed amendment and hold a public hearing in accordance to Subsection (c) below.

**C. NOTICE OF PUBLIC HEARING.** Upon receipt of a completed application, site plan and attachments, if any, and any applicable fee, the Planning Commission shall schedule a Public Hearing on the request. The Notice of Public Hearing on the application shall be published in a newspaper that circulates within the Township, not less than fifteen (15) days before the application will be considered. If an individual property, or ten (10) or fewer adjacent properties are proposed for rezoning, said Public Notice shall be sent not less than fifteen (15) days before said hearing date by first class mail to the owners of property for which rezoning is being considered and to all persons to whom real property is assessed within 300 feet of the boundary of the subject property, and to occupants of all structures within 300 feet of the subject property, regardless of whether the property or occupant is located in the zoning jurisdiction. If eleven (11) or more adjacent properties are proposed for rezoning said Public Notice shall be made in the manner provided in Act 110 of the Public Acts of 2006, the Michigan Zoning Enabling Act.

The Public Notice shall contain (a) description of the nature of the action requested in the application (b) a legal description and/or address of the subject property, (c) a statement of when and where the public hearing will be held to consider the application, and (d) a statement as to when and where written



comments will be received concerning the application. The Township shall maintain an Affidavit of the mailing of such public notice.

- D. **PLANNING COMMISSION RECOMMENDATION.** Following the public hearing, the Planning Commission shall prepare a report and its recommendations regarding the proposed amendment, and transfer such to the Township Board.
- E. **TOWNSHIP BOARD ACTION.** After the Planning Commission has held a Public Hearing and has made a written report to the Township Board indicating their recommendation on the proposed amendment, the Township Board may adopt the proposed amendment, decline to adopt the proposed amendment, or may adopt it in whole, part, or with or without additional changes. The Board may also hold a public hearing on the proposed amendment or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings.

#### **SECTION 23.03 PROTESTS.**

Within seven (7) days after publication of this Zoning Ordinance or any Amendment thereto, a registered elector residing in the unincorporated portion of Hamilton Township may file with the Hamilton Township Clerk, a Notice of Intent to file a petition requesting a referendum thereon. If a Notice of Intent is filed and within thirty (30) days following the publication of the Zoning Ordinance, or an Amendment thereto, a petition requesting a referendum is filed with the Hamilton Township Clerk signed by registered electors residing within the unincorporated portion of the township, constituting not less than fifteen (15) percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected in said township, this Zoning Ordinance or any Amendment thereto may be submitted to the electors for their approval or rejection.

#### **SECTION 23.04 EFFECTIVE DATE OF ZONING ORDINANCE AND AMENDMENTS THERETO.**

This Zoning Ordinance and any Amendments thereto shall become effective at the expiration of thirty (30) days after publication of same, if no notice of intent to file a Petition for referendum is filed, or no Petition requesting a referendum is filed with the aforesaid time period, or the Township Clerk determines that the Petition is inadequate. If an adequate Petition for

referendum is filed this Zoning Ordinance or any Amendments thereto shall become effective upon its approval by a majority of the registered electors residing in the unincorporated portions of Hamilton Township voting thereon at the next regular election, or at any special election called for that purpose.

**SECTION 23.05 CONFORMANCE TO COURT DECREE**

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of amendment published without referring same to any other board or agency.

**CHAPTER 24  
VIOLATIONS AND PENALTIES**

**SECTION 24.01 PUBLIC NUISANCE**

Buildings erected, altered, raised, or converted (including tents, mobile homes, and trailer coaches), or uses carried on in violation of any provision of this Ordinance are hereby declared to be a nuisance per se, and shall be subject to abatement.

**SECTION 24.02 VIOLATION DEFINED**

Any person, firm, corporation, or agent, or employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement official, shall be deemed in violation of this Ordinance. Each day that a violation exists shall constitute a separate offense.

**SECTION 24.03 PENALTIES**

- A. Any person, firm, corporation or other entity who violates the provisions of this Ordinance is responsible for a civil infraction as defined by Michigan Law and subject to civil fine determined in accordance with the following schedule:

	<b>Minimum</b>	<b>Maximum</b>
First violation within a three (3) year period*	\$50	\$500
Second violation within a three (3) year period*	\$125	\$500
Third violation within a three (3) year period*	\$250	\$500
Fourth or more violation within a three (3) year period*	\$400	\$500

\* determined on the basis of the date of the violation(s)

- B. Additionally, the violator shall pay costs, which may include all direct and indirect expenses to which Hamilton Township has been put in connection with the violation. In no case, however, shall the costs of less than \$9.00 or more than \$500.00 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under

Michigan Law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

- C. The Hamilton Township Board may further institute injunction, mandamus, abatement, or any other appropriate action to prevent, enjoin, abate or remove any violations of this Ordinance.

## CHAPTER 25

### EFFECTIVE DATE AND REPEALER

#### Section 25.01 EFFECTIVE DATE

This Zoning Ordinance is subject to a referendum pursuant to MCL 125.3402, and therefore said Zoning Ordinance shall not take effect until the expiration of seven (7) days after the publication of this notice, unless a Notice of Intent to file a Petition for Referendum is filed with the Hamilton Township Clerk within the aforesaid seven (7) days.


In the event the aforesaid Notice of Intent is timely filed, this Ordinance shall not take effect until the expiration of thirty (30) days after publication of this notice, if no Petition for a Referendum is filed with the Hamilton Township Clerk within the aforesaid thirty (30) days, or the Clerk determines that said Petition is inadequate.

In the event an adequate Petition is filed within thirty (30) days of publication of this notice, this Zoning Ordinance shall not take effect until approved by a majority of the registered electors residing in Hamilton Township voting on said Petition at the next regular election or at any special election called for that purpose.

#### Section 25.02 REPEALER

The present Hamilton Township Zoning Ordinance adopted March 13, 1990 is hereby repealed, and all other Ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Adopted by the Township of Hamilton, Van Buren County, Michigan on this 8<sup>th</sup> day of January, 2008.

  
\_\_\_\_\_  
Carl C. Druskovich DDS, Supervisor

  
\_\_\_\_\_  
David Tate, Clerk

I, David Tate, Clerk of the Township of Hamilton, Van Buren County, Michigan do hereby certify that Board Member David Tate moved the adoption of said Hamilton Township Zoning Ordinance and that Board Member Craig Rose supported said motion.

I further certify that the following Board Members voted for the adoption of said Ordinance: Charles Goodrich, Craig Rose, Sandra Hanson, David Tate and Carl Druskovich, and that the following Board Members voted against the adoption of said Ordinance: None.

Dated: January 8, 2008



\_\_\_\_\_  
David Tate, Township Clerk  
Hamilton Township, Van Buren County MI

#### CERTIFICATION

I, David A. Tate, Clerk of the Township of Hamilton, Van Buren County, Michigan, do further certify that notice of the adoption of the aforesaid Hamilton Township Zoning Ordinance was duly published in the Decatur Republican, a newspaper circulating in said Township of Hamilton, Van Buren County, Michigan on the 17<sup>th</sup> day of January, 2008.

I further certify that the foregoing Hamilton Township Zoning Ordinance is a True and Correct copy of an Ordinance duly adopted by Hamilton Township, Van Buren County, Michigan, on the 8<sup>th</sup> day of January, 2008.

Dated: January 17, 2008.



\_\_\_\_\_  
David Tate, Township Clerk  
Hamilton Township, Van Buren County MI