

Chapter 1. - ZONING AND LAND USE REGULATIONS

EFFECTIVE DATE

Compilation and Regulation adopted by the Porter Township Board on the 11th day of November, 2009.

TOWNSHIP OF PORTER
COUNTY OF VAN BUREN,
OF MICHIGAN
ZONING ORDINANCE
PREAMBLE

The Township Board of Porter Township, County of Van Buren, Hereby Ordains:

This ordinance shall be known as the PORTER TOWNSHIP ZONING ORDINANCE.

The purpose of this ordinance is to promote the public health, safety, morals and general welfare. The provisions are intended to provide for the orderly development of the township; to encourage the use of lands and natural resources in the township in accordance with their character and adaptability; and property, to avoid overcrowding of population; to provide for adequate health conditions in dwellings and buildings hereafter erected or altered; to lessen congestion of the public roads and streets; to protect and conserve natural recreational areas, agricultural areas, residential areas and other areas naturally suited to particular uses; to facilitate the establishment of an adequate and economic system for transportation, sewage disposal, safe water supply, education, recreation and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous uses of land resources of the township by both the community in general and the individual inhabitant.

BE IT THEREFORE ORDAINED BY
THE TOWNSHIP OF PORTER, VAN BUREN COUNTY, MICHIGAN AS FOLLOWS:

ARTICLE I. - ESTABLISHMENT OF DISTRICTS AND PROVISION FOR OFFICIAL ZONING MAP

Sec. 1.01. - Official zoning map.

- A. Porter Township is hereby divided into zoning districts, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.
- B. If, in accordance with the provisions of this ordinance, changes are made in zoning district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map within ten days after the amendment has been approved by the township board.
- C. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance.
- D. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map shall be located in the office of the township clerk and shall be the final authority as to the current zoning status of land and water areas, buildings and other features and structures in the township.

Sec. 1.02. - Replacement of official zoning map.

- A. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature of number of changes and additions, the township board may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof.

- B. Unless the prior official zoning map has been lost or totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved together with all available records pertaining to it(s) adoption or amendment.

Sec. 1.03. - Boundaries of zones.

Where uncertainty exists as to the boundaries of any of the zones as shown on the zoning map, the following rules shall apply:

- A. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on said zoning map.
- B. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
- C. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distance therefrom such lot lines shall be such boundaries.
- D. In unsubdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
- E. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

Sec. 1.04 - Established districts.

- A. For the purpose of this ordinance, Porter Township is hereby divided into the following zoning districts:

A	Agricultural/Farmland Preservation
R-1	Residential, Low Density
R-2	Residential, Medium Density
R-L	Residential, Lake
REC	Recreation
C	Commercial
I	Industrial
EO	Environmental Overlay
IA	Industrial Agricultural

- B. The location and boundaries of the zones established in the township shall be shown on a map entitled Zoning Map of Porter Township, and as same may be amended subsequent to the adoption thereof; and said map, section or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.
- D. The official copy of the zoning map shall be in the custody of the Porter Township Clerk.

ARTICLE II. - NONCONFORMING LOTS, STRUCTURES AND USES

Sec. 2.01. - Intent.

- A. It is the intent of this ordinance that lawful nonconformance shall be permitted to be enlarged, expanded, extended, repaired, reconstructed or replaced, but only in accordance with the following provisions of this article. The existing structures and uses of land which were lawfully established or constructed under the previous ordinance, but which would be prohibited, regulated or restricted under the terms of this ordinance or future amendments thereto are nonconforming uses.
- B. It is the intent of this ordinance to permit such lawful nonconformance to continue until they are removed but not to encourage their continuation.
- C. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance, and upon which actual construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently.

Sec. 2.02. - Nonconforming lots of record.

- A. In any district in which structures or dwellings are permitted, a single dwelling and customary accessory buildings thereto may be erected on any single lot which was a lot of record at the effective date of this ordinance or subsequent amendment thereto, provided all applicable township, county and state regulations are complied with and all required permits are duly obtained. Notwithstanding limitations imposed by other provisions of this ordinance, such lot must be in separate ownership and not of continuous frontage with lots in the same ownership the combining of which would create a lot which would conform to the provisions of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width of the lot shall conform to the regulations of the district in which the lot is located. Variance of yard requirements shall be obtained only through action by the board of appeals in accordance with article VII.
- B. If two or more lots or combination of lots or portions of lots with continuous frontage in single ownership are of record at the effective date of this ordinance, or subsequent amendment thereto, and if all or part of the lots do not meet requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcels shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

Sec. 2.03. - Nonconforming structures.

- A. Where a lawful nonconforming structure or portion of a structure exists at the effective date of this ordinance or subsequent amendment thereto that could not be built under the terms of this ordinance

by reasons of restrictions on lot size, height, yards, location on the lot or other requirements concerning the structure, such structure may be continued if it remains otherwise lawful, provided:

- (1) Such nonconforming structure, or portion of a structure, may be enlarged, extended, repaired, reconstructed or replaced, providing all applicable provisions of the Porter Township Construction Code and all applicable provisions of all other township, county and state regulations are complied with and all required permits are duly obtained.
- (2) The enlargement, extension, repair, reconstruction or replacement of such nonconforming structure or portion of a structure shall be subject to the yard, height, bulk and placement requirements of the district regulations for the zoning district in which the structure is located. Provided however, that in cases where compliance with such regulations would cause practical difficulty or undue hardship, relief there from may be granted by the board of appeals in accordance with provisions of article VII.
- (3) The enlargement, extension, repair, reconstruction or replacement of such nonconforming structure or portion of a structure shall be confined to the lot of record upon which it was located at the effective date of adoption or amendment of this ordinance.

Sec. 2.04. - Nonconforming uses of structure or land.

- A. Where at the effective date of this ordinance, or subsequent amendment thereto, lawful use of structures or land exists which would not be permitted by the regulations of this ordinance remains otherwise lawful, provided:
 - (1) Such nonconforming use of a structure or land may be enlarged, extended or increased provided that all applicable district regulations of this ordinance for the district in which such nonconforming use is located, and:
 - (2) Such nonconforming use of a structure or land shall be confined to the lot of record which it was located at the effective date of adoption or amendment of this ordinance.
 - (3) Whenever any lawful nonconforming use of a structure or land is superseded by a permitted use, the use of such structure or land shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

ARTICLE III. - ESTABLISHMENT OF DISTRICT REGULATIONS

Sec. 3.01. - A Agricultural/Farmland Preservation.

- A. *Description of district.* This district is composed of certain land in outlying areas presently of rural character. Such land is zoned for agricultural use with the intent that agriculture will be the principal land use within the foreseeable future. The regulations for this district are designed to stabilize and protect the essential characteristics of the district without unduly restricting its use solely to that of an agricultural nature. To these ends, development is limited to a low concentration and to those uses which would not be detrimental to area agricultural uses and add value to local agricultural products.
- B. *Sliding scale zoning.* To promote farmland preservation in this district, sliding scale zoning is adopted to establish the number of nonagricultural building sites permitted on an existing public roadway from a parent parcel. The number of two-acre parcels allowed to be split from a parent parcel is based on the size of the parent parcel and is shown on the summary of site development regulations and listed below. After the approved number of two-acre parcels have been split from the parent parcel, development of the remaining acreage must be in accord with the provisions of section 4.14, Community open space development [Open space community development].

Parent Parcel Size	Number of Allowed Splits on a Public Road
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< 20.0 Acres	1 Split
20.0—39.9 Acres	2 Splits
40.0—79.9 Acres	3 Splits
80.0—159.9 Acres	4 Splits
160.0—319.9 Acres	5 Splits
> 320.0 Acres	6 Splits

C. *Permitted uses.*

- (1) Single-family dwellings and structures and uses normally auxiliary thereto.
- (2) Any agricultural activities including stock nurseries, animal and livestock raising, and poultry raising.
- (3) The sale of farm or dairy product which has been raised on the farm from which it is to be sold.
- (4) Home occupations.
- (5) Licensed migrant worker housing for persons employed on the premises for seasonal crops.
- (6) Signs, when accordance with the provisions of section 9.2 7[4.18.I].
- (7) Accessory uses or buildings, when in accordance with the provisions of section 9.4 [4.02].

D. *Special exception uses.*

- (1) Churches, cemeteries, parochial and private schools.
- (2) Eleemosynary, charitable and philanthropic institutions.
- (3) Golf courses, private noncommercial clubs.
- (4) Public utility buildings, telecommunication towers and antennas and structures necessary for the service of the community except that:
 - a. There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - b. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
- (5) Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- (6) Gravel pits, quarries and mines.
- (7) Licensed migrant worker housing for persons employed on the premises for seasonal crops.
- (8) Food processing.
- (9) Private airfields.

- (10) Campgrounds.
- (11) Vet and animal boarding facilities.
- (12) Nursing homes.
- (13) Group care facilities.
- (14) Open space community development.
- (15) Day care homes.
- (16) Waste transfer stations.
- (17) Animal agriculture and livestock production facilities.
 - a. *Description.* A facility where animals defined in the Right to Farm Act, such as dairy cattle, poultry, beef cattle, sheep, swine, etc. are confined with a capacity of 50 animal units or greater and the associated manure facilities. Pasture systems are excluded.
 - b. *[Compliance with standards.]* Animal agriculture and livestock production facilities shall comply with all applicable local, state and federal standards, including for example, the federal Clean Water Act, point source pollution control parts of the Michigan Natural Resources and Environmental Protection Act, and the most recent of the Generally Accepted Agricultural and Management Practices (GAAMPs), published and adopted by the Michigan Commission of Agriculture pursuant to the Michigan Right to Farm Act for nuisance protection. New and expanding livestock production facilities (as defined in the GAAMPs) shall have proposed sites verified by the Michigan Department of Agriculture.

E. *Site development standards.*

- (1) *Height.* No agricultural building or structure shall exceed the lesser of 35 feet or two and one-half stories, with the exception of grain bins, grain legs and silos. The height is measured from the first-floor grade to the peak of the highest roof line.
- (2) *Minimum dwelling size.* The minimum dwelling size for this district shall be 960 feet on the first floor and the dwelling must be at least 24 feet wide over the entire length.
- (3) *Lot area and lot width.* The minimum lot area for use in this district shall be two acres with a minimum lot width of 220 contiguous feet at a public road, except as approved on a community open space development site plan. No more than 25 percent of the lot area shall be covered with impervious surfaces.
- (4) *Setback and sideline spacing.* No building or structure, nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
 - a. *Setbacks.*
 - 1. *Front.* The minimum setback line for residential buildings or structures shall be 50 feet from the foundation to street or state highway right-of-way lines, or public road easement lines, abutting a parcel.
 - 2. *Side.* The minimum side line spacing for agricultural buildings or structures including residences and outdoor storage areas shall be 20 feet from the foundation.
 - 3. *Rear.* The minimum rear line spacing for agricultural buildings or structures including residences and outdoor storage areas shall be 25 feet from the foundation.
- (5) *Construction materials.* All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
- (6) *[Utilities.]* Reserved.
- (7) *External lighting.* All lighting shall comply with the lighting provisions of section 4.09.

(Amend. eff. Dec. 21, 2009)

Sec. 3.02. - R-1 Residential District, Low Density.

- A. *Description of district.* This district is composed of certain land in outlying areas presently of a rural residential character where low-density single-family residential development has occurred or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to low density single family residential use consistent with limited rural type facilities and services.
- B. *Permitted uses.*
- (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto.
 - (2) Home occupations.
 - (3) Publicly owned and operated building and uses including community buildings and public parks, playgrounds and other recreational areas.
 - (4) Signs, when in accordance with the provisions of section 9.2 [4.18.I].
 - (5) Accessory uses or buildings, when in accordance with the provisions of section 9.4 [4.02].
- C. *Special exception uses.*
- (1) Churches, cemeteries, parochial and private schools.
 - (2) Eleemosynary, charitable and philanthropic institutions.
 - (3) Golf courses, private noncommercial clubs.
 - (4) Public utility buildings, telecommunication towers and antennas and structures necessary for the service of the community except that:
 - a. There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - b. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
 - (5) Nursing homes.
 - (6) Group care facilities.
 - (7) Open space community development.
- D. *Site development standards.*
- (1) *Height.* No residential building or structure shall exceed the lesser of 35 feet or two and one-half stories. The height is measured from the first floor grade to the peak of the highest roof line.
 - (2) *Minimum dwelling size.* The minimum dwelling size for this district shall be 960 feet on the first floor and the dwelling must be at least 24 feet wide over the entire length.
 - (3) *Lot area and lot width.* The minimum lot area for use in this district shall be one acre with a minimum lot width of 220 contiguous feet at a public road, except as approved on a community open space development site plan. No more than 25 percent of the lot area shall be covered with impervious surfaces.
 - (4) *Setback and sideline spacing.* No building or structure nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
 - a. *Setbacks.*

1. *Front.* The minimum setback line for residential buildings or structures shall be 50 feet from the foundation to street or state highway right-of-way lines, or public road easement lines, abutting a parcel.
 2. *Side.* The minimum side line spacing for residential buildings or structures shall be 20 feet from the foundation.
 3. *Rear.* The minimum rear line spacing for residential buildings or structures shall be 25 feet from the foundation.
- (5) *Construction materials.* All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
 - (6) *[Utilities.]* All new utility lines shall be underground.
 - (7) *External lighting.* All lighting shall comply with the lighting provisions of section 4.09.

(Amend. eff. Dec. 21, 2009)

Sec. 3.03. - R-2 Residential District Medium Density.

- A. *Description of district.* This district is composed of medium-density single-family residential areas in township where medium-density single-family residential development has occurred, or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to medium density single family residential use, where adequate facilities and services will be provided.
- B. *Permitted uses.*
 - (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto.
 - (2) Home occupations.
 - (3) Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds, and other recreational areas.
 - (4) Signs, when accordance with the provisions of section 9.2.
 - (5) Accessory uses, or buildings, when in accordance with the provisions of section 9.4.
 - (6) Open space community development.
- C. *Special exception uses.* Any special exception use permitted in the R-1 Residential district.
- D. *Site development standards.*
 - (1) *Height.* No residential building or structure shall exceed the lesser of 35 feet or two and one-half stories. The height is measured from the first-floor grade to the peak of the highest roof line.
 - (2) *Minimum dwelling size.* The minimum dwelling size for this district shall be 960 feet on the first floor and the dwelling must be at least 24 feet wide over the entire length.
 - (3) *Lot area and lot width.* The minimum lot area for use in this district shall be three-quarters [of an] acre (a minimum of 32,670 square feet) with a minimum lot width of 120 contiguous feet at the building line and 90 feet on a limited-access road, except as approved on a community open space development site plan. No more than 35 percent of the lot area shall be covered with impervious surfaces.
 - (4) *Setback and sideline spacing.* No building or structure, nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
 - a. *Setbacks.*

1. *Front.* The minimum setback line for residential buildings or structures shall be 50 feet from the foundation to street or state highway right-of-way lines, or public road easement lines, abutting a parcel.
 2. *Side.* The minimum side line spacing for residential buildings or structures in this district shall be ten feet from the foundation.
 3. *Rear.* The minimum rear line spacing for residential buildings or structures in this district shall be 25 feet from the foundation.
- (5) *Construction materials.* All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
 - (6) *[Utilities.]* All utility lines shall be underground.
 - (7) *External lighting.* All lighting shall comply with the lighting provisions of section 4.09.

(Amend. eff. Dec. 21, 2009)

Sec. 3.04. - R-L Residential, Lake District.

- A. *Description of district.* It is the intent of this district to encourage the proper development of land abutting lakes and waterways and promote the integrity of the lakes and water ways within Porter Township while preserving the quality of recreational use of inland waters; to protect the quality of lakes and waterways by discouraging excess uses; 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 lakes and waterways by minimizing manmade adjustments to the established shorelines. Nothing in this section shall be constructed 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. *Permitted uses.* Land and/or buildings may be utilized for the following permitted uses subject to the standards outlined in Appendix E, Keyhole or Funnel Waterfront Access.
 - (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto.
 - (2) Home occupations.
 - (3) Signs, when in accordance with the provisions of section 9.2 [4.18.I].
 - (4) Accessory uses or buildings, when in accordance with the provisions of section 9.4 [4.02].
- C. *Special exemption uses.*
 - (1) Planned unit development subject to section 4.14.
 - (2) Community open space development subject to section 4.16.
- D. *Site development standards.*
 - (1) *Height.* No residential building or structure shall exceed the lesser of 35 feet or two and one-half stories. The height is measured from the first floor grade to the peak of the highest roof line.
 - (2) *Minimum dwelling size.* The minimum dwelling size for this district shall be 960 feet on the first floor and the dwelling must be at least 24 feet wide over the entire length.
 - (3) *Lot area and lot width.* The minimum lot area for use in this district shall be one-quarter acre (a minimum of 10,890 square feet) with a minimum lot width of 120 contiguous feet at the building line and 90 feet on a limited-access road, except as approved on a community open space development site plan. No more than 35 percent of the lot area shall be covered with impervious surfaces.

- (4) *Setback and sideline spacing.* No building or structure, nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
- (5) *Setbacks.*
 - a. *Front.* The minimum setback line for residential buildings or structures shall be 50 feet from the foundation to street or state highway right-of-way lines, or public road easement lines, abutting a parcel. For waterfront parcels, the lakeside of the structure is the front yard; the front setback for lakefront properties shall be at least 50 feet from the average high water mark or no closer to the water's edge than the average distance of the adjacent three residences on both sides of the subject parcel.
 - b. *Side.* The minimum side line spacing for residential buildings or structures in this district shall be ten feet from the foundation. For preexisting lots less than 40 feet in width, the side setback shall be 8 feet.
 - c. *Rear.* The minimum rear line spacing for residential buildings or structures in this district shall be 25 feet from the foundation. For waterfront parcels, the road side of the structure is the rear yard; the rear setback for lakefront properties shall be least 25 feet from the edge of the road as defined in the plat.
- (6) *Construction materials.* All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
- (7) *[Utilities.]* All new utility lines shall be underground.
- (8) *External lighting.* All lighting shall comply with the lighting provisions of section 4.09.
- (9) *[Dedicated off-street parking requirement.]* All new residential construction located in this district shall have an area dedicated to off-street parking. This area shall be adjacent to a public or private street, avenue, boulevard, highway, road, lane, alley or other public or private way intended for use by motor vehicles, bicycles or pedestrians and shall be on a hard surface driveway or on an improved parking area of not less than 400 (four hundred) square feet. Such a hard surface area shall be bituminous, concrete, brick, gravel or crushed rock or another hard surface approved by township officials.

(Amend. eff. Dec. 21, 2009; amend. eff. Nov. 10, 2010)

Sec. 3.05. - REC Recreational District.

- A. *Description of district.* It is the intent of this district to protect the public health, safety and general welfare and to prevent ecological damage and loss by regulating and preventing certain developments and land uses within areas of Porter Township designated as recreational areas. Further the purpose is to protect and assure nonpollution of lakes and to preserve fish and wildlife resources, water quality, scenic and aesthetic qualities, historic and recreational values; to prevent flood damage caused by interference with natural floodplain characteristics by excluding from this district structures, uses and activities which are vulnerable to flood damage and/or causing ecological damage; thereby avoiding economic cost and human inconvenience and suffering. Buildings, especially residences and commercial buildings are discouraged from being located in this area, but not totally prohibited. If they will further the purpose of this district, to that end, all buildings and land uses that are to be constructed after the effective date of this ordinance shall be approved by and subject to site plan review as described in sections 5.01 through 5.05.
- B. *Permitted uses.* Land may be utilized for the following permitted uses subject to the standards outlined in section 3.08, Environmental overlay buffer.
 - (1) Generally recognized agricultural activities, including livestock and poultry operations, dairy farming, horticulture, grain farming, forestry, gardening and similar uses not involving placement or construction of permanent structures.

- (2) Generally recognized recreational uses and activities, such as athletic fields, parks and playgrounds, nature study areas, hiking areas, golf courses, driving ranges, bridle trails, snowmobile trails, licensed shooting preserves and similar uses not involving placement or construction of permanent structures.
- (3) Campgrounds further subject to the requirements of Appendix D.

C. *Special exemption use.*

- (1) Temporary structures accessory to permitted uses listed above.
- (2) Permanent structures accessory to permitted uses listed above.
- (3) Filling and grading, where all applicable local, state, and/or federal permits have been obtained.

D. *Site development standards.*

- (1) *Height.* No building or structure shall exceed the lesser of 35 feet or two and one-half stories. The height is measured from the first-floor grade to the peak of the highest roof line.
- (2) *Minimum dwelling size.* As approved on a special use site plan.
- (3) *Lot area and lot width.* The minimum lot area for use in this district shall be two acres with a minimum lot width of 220 contiguous feet at a public road. No more than ten percent of the lot area shall be covered with impervious surfaces.
- (4) *Setback and sideline spacing.* No building or structure, nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
 - a. *Front.* The minimum setback line for residential [recreational] buildings or structures shall be 50 feet from the foundation to street or state highway right-of-way lines, or public road easement lines, abutting a parcel.
 - b. *Side.* The minimum side line spacing for recreational buildings or structures, including outdoor storage and use areas, shall be 30 feet from the foundation.
 - c. *Rear.* The minimum rear line spacing for residential [recreational] buildings or structures in this district shall be 25 feet from the foundation.
- (5) *Construction materials.* All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
- (6) *[Utilities.]* Reserved.
- (7) *External lighting.* All lighting shall comply with the lighting provisions of sections 4.09 and 4.12.

(Amend. eff. Dec. 21, 2009)

Sec. 3.06. - C Commercial District.

- A. *Description of district.* This district is established for the accommodation of community wide needs for general office, retail sales and service facilities. The regulations are designed to permit development of the enumerated functions as limited to protect the abutting and surrounding properties.
- B. *Permitted uses.* Retail sales of goods and services such as:
 - (1) Bakery and dairy products, retail sales only.
 - (2) Banks, savings and loan associations.
 - (3) Barber and beauty shops.
 - (4) Books, stationery and newspapers.
 - (5) Clothing and dry goods.

- (6) Drugs and pharmaceuticals.
- (7) Florist and garden shops.
- (8) Funeral establishments.
- (9) Furniture and household furnishings.
- (10) Groceries and food stuffs.
- (11) Hardware, hobby shop, household appliances.
- (12) Laundromat, laundry and dry cleaning pickup station.
- (13) Music and dancing schools.
- (14) Offices, business or professional.
- (15) Photography store.
- (16) Radio and television, sales and service.
- (17) Restaurant or similar eating establishment.
- (18) Greenhouse, nursery.
- (19) Shoe sales and repair.
- (20) Signs when in accordance with the provisions of section 9.2 [4.18.1].
- (21) Tailoring and dressmaking.
- (22) Variety store, antiques, gifts.
- (23) Accessory uses or buildings, when in accordance with the provisions of section 9.4 [4.02].
- (24) Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- (25) Rental storage buildings.
- (26) Gift shop.
- (27) Medical clinic.
- (28) Churches.
- (29) Convenience store.

C. *Special exception uses.*

- (1) Any retail similar to those uses permitted in this section, which is not specifically mentioned.
- (2) Agriculture.
- (3) Automobile sales.
- (4) Boat and equipment sales.
- (5) Construction and farm equipment sales.
- (6) Commercial recreation enterprises.
- (7) Bar, tavern and night club.
- (8) Mobile home sales.
- (9) Drive-in eating establishments.
- (10) Hotel, motel.
- (11) Gasoline service stations.

- (12) Package liquor sales.
- (13) Public utility buildings, telecommunication towers and antennas, and structures necessary for the service of the community except that:

D. *Site development standards.*

- (1) *Height.* No commercial building or structure shall exceed the lesser of 35 feet or two and one-half stories.
- (2) *Lot area and lot width.* The minimum lot area for use in this district shall be one acre with a minimum lot width of 220 contiguous feet at a public road. No more than 35 percent of the lot area shall be occupied including outdoor storage areas, but excluding employee and visitor parking areas.
- (3) *Setback and sideline spacing.* No building or structure for commercial use, nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
 - a. *Setbacks.*
 - 1. *Front.* The minimum setback line for residential [commercial] buildings or structures shall be 50 feet from the foundation to the street or state highway right-of-way lines, or public road easement lines, abutting a parcel.
 - 2. *Side.* The minimum side line spacing for industrial [commercial] buildings or structures including outdoor storage areas shall be 30 feet except that for such buildings, structures, or areas abutting a residential area such minimum spacing shall be 50 feet, and except further that no such building or structure shall be located less than 100 feet from any occupied residential building.
 - 3. *Rear.* The minimum rear line spacing for commercial buildings or structures including outdoor storage areas shall be 25 feet except that for such buildings, structures or areas abutting residential areas such minimum spacing shall be 50 feet, and except further that no such building or structure shall be located less than ten feet from any occupied residential structure.
- (4) *Construction materials.* At least 80 percent of the front side of commercial buildings, as well as any other sides that face adjacent residential areas, shall be finished with face brick, wood, glass, stone, fluted cement block or future acceptable building materials compatible with surrounding properties. All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
- (5) *[Utilities.] Reserved.*
- (6) *Landscaping, fencing and signs.*
 - a. *Landscaping.* All ground surfaces between the edges of public or private roads and streets and the property line shall be landscaped and maintained as such. All unused areas must be landscaped or kept natural.
 - 1. For property lines abutting a residential district a screen of fencing, berms, plantings or a combination of these not less than six feet above ground level shall be provided. If plantings alone are used such plantings must provide a 30-foot wide strip that will present a solid sight barrier.
 - 2. Fencing must be solid, berms must be landscaped and screen plantings shall retain foliage throughout the year. The site plan shall include a planting plan giving the numbers, species and height of plantings at time of installation.
 - 3. Maintenance of fencing, berms and plantings following installation is the responsibility of the property owner. A performance bond covering maintenance of plantings until established and construction of fencing and berms may be required by the Township.

- b. *Fencing.* Except for loading and unloading docks and employee and visitor parking areas, all uses not in an enclosed building must be enclosed by a solid fence not less than six feet in height. An alternative screening feature such as a berm in combination with obscuring vegetation, fencing or walls may be approved when in the judgment of the Zoning Commission (Zoning Commission (Planning Commission)) such alternative screening, taken in context of the specific location and outdoor use, would provide equal or better permanent year round noise and visual protection.
- c. *Signs.* Signs in a commercial district shall comply with the provisions of section 4.18.

(7) *Road and streets.*

- a. *Private roads and streets.* All private roads and streets must be hard surfaced and must comply with those sections of this ordinance dealing with roads and streets.
- b. *Ingress and egress.*
 - 1. Access roads serving a commercial development containing more than one commercial operation shall be designed to include a dual throat at the public-street intersection. The raised island in the driveway throat shall be a minimum of ten feet in width and 30 feet in length. The ingress lane shall be a minimum of 16 feet wide and the egress lane shall be a minimum of 22 feet wide. Final driveway throat geometrics are subject to the approval of the Van Buren County Road Commission.
 - 2. An access road intersection wholly within the commercial district shall have not less than a 66-foot wide easement. If such an intersection abuts nonindustrial property with the easement shall be not less than 80 feet wide.
 - 3. For a commercial development larger than 20 acres that will serve more than one commercial operation the township may require provision in the site plan for an additional ingress-egress road.

(8) *External lighting.* All commercial operations shall comply with the lighting provisions of sections 4.09 and 4.12 and the additional standards below. Exterior lighting shall be designed and constructed in such a manner to:

- a. Insure that direct or directly reflected light is confined to the development site.
- b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way. The light source shall not be directly visible from beyond the boundary of the site and light rays may not be emitted by the installed fixture at angles above the horizontal plane of the fixture.
- c. The light from any illuminated source shall be designed so that the light intensity or brightness will not be objectionable to surrounding areas.
- d. Light sources shall be low-pressure sodium or similar fixtures which emit light that may be filtered for astronomical viewing.
- e. No elevated exterior light fixture, including, but not limited to, light poles, canopy lights, soffit lights and similar fixtures, shall exceed 14 feet in height.
- f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
- g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

- E. *Change in occupant or tenancy.* Approval of site plans and special exception uses shall apply to the uses and tenants proposed at the time of application. In the Commercial district, a change in the nature of the tenancy or occupancy of a previously approved building may require a new or revised site plan, unless the zoning administrator determines that the proposed new use is reasonably able to comply with all conditions of approval pertaining to the original site plan.

(Amend. eff. Dec. 21, 2009)

Sec. 3.07. - I Industrial District.

- A. *Description of district.* This district is established to provide for the development of low-intensity processing, warehousing, assembly, testing and manufacturing uses characterized by the absence of objectionable effects. Based on the agricultural nature of the community in the foreseeable future, the district is designed to be supportive of the agricultural products grown in the area. Furthermore, due to the lack of available lack of public utilities, such uses must be limited in nature to those requiring minimal process water effluent discharges. Ordinance requirements of the Industrial District are therefore designed to accommodate the development of only those uses that are compatible with one another and, with the inclusion of appropriate buffering, siting and design elements, are least offensive and disruptive to nearby residential or other properties and transportation abilities or the accommodation of community wide needs for general retail sales and service facilities. The regulations are designed to permit development of the enumerated functions as limited to protect the abutting and surrounding properties.
- B. *Permitted uses.* Land and/or building may be utilized for the following permitted uses subject to the standards outlined below and subject further to site plan approval under the procedures and criteria outlined in 4.16.K., Site plan review procedures.
- (1) Use and development of separate and individual lots or building sites for the following purposes:
- a. Food processing.
 - b. Warehouses and cold storage.
 - c. Tool, die and gauge and machine shops, pattern makers.
 - d. Mini-storage facilities.
 - e. Printing and publishing.
 - f. Parts assembly.
 - g. Essential services.
 - h. Cabinet making shops.
 - i. Office buildings when accessory to a permitted use.
 - j. Wireless communication facilities which are sited as principal uses.
 - k. Accessory buildings and uses customarily incidental to the permitted uses when located on the same lot or parcel of land.
 - l. Vehicle repair shops providing all vehicles and materials are kept within a building or in an area well screened from the view of nearby properties and roadways.
 - m. Research and development establishments and laboratories.
 - n. Construction contractors such as plumbing, heating and electrical providing parts are stored indoors.
 - o. Contractors or concrete and paving providing no raw material production or storage of product are kept on site (asphalt, concrete).
 - p. Crating and packing or mailing service.
 - q. Wholesale distributors.
 - r. Service establishments such as upholstering, office machine repair, sign painting and taxidermist.

- (2) Use and development of separate/individual lots or building sites for the uses specified in paragraph 7.2.1 [subsection B.(1)] located in multiple-occupant structures intended for or used by two or more separate and distinct businesses, provided that such structure shall not exceed 10,000 square feet of building floor area. For the purposes of this paragraph, subsidiary or related businesses with common or similar ownership shall not be regarded as separate and distinct businesses.
- C. *Special exception uses.* Land and/or buildings may be utilized for the following special exception uses subject to the procedures for approval of special exception uses itemized in subsection (2) below and any specific standards adopted for the special exception use.
- (1) Any industrial use itemized as a permitted use in subsection B.(1) above which exceeds 28,000 square feet of floor area or employs more than 30 persons on site during any one shift.
 - (2) Any multiple-occupant structure with a building floor area in excess of 10,000 square feet, intended for or used by two or more separate and distinct businesses. For the purposes of this paragraph, subsidiary or related businesses with common or similar ownership shall not be regarded as separate and distinct businesses.
 - (3) Land developments creating two or more industrial lots or building sites which under the terms of this ordinance will entail or require the construction of a public or private street or road in order to achieve the required street frontage or legal access to each lot or building site.
 - (4) Wireless communication facilities which are sited as secondary uses.
 - (5) Planned unit development (PUD).
- D. *Site development standards.*
- (1) *Height.* No industrial building or structure shall exceed the lesser of 35 feet or two and one-half stories.
 - (2) *Lot area and lot width.* The minimum lot area for use in this district shall be one acre with a minimum lot width of 220 contiguous feet. No more than 35 percent of the lot area shall be occupied including outdoor storage areas, but excluding employee and visitor parking areas.
 - (3) *Setback and sideline spacing.* No building or structure for industrial use nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
 - (4) *Setbacks.*
 - a. *Front.* The minimum setback line for residential [industrial] buildings or structures shall be 50 feet from the foundation to street or state highway right-of-way lines, or public road easement lines, abutting a parcel.
 - b. *Side.* The minimum side line spacing for industrial buildings or structures including outdoor storage areas shall be 30 feet except that for such buildings, structures, or areas abutting a residential area such minimum spacing shall be 50 feet, and except further that no such building or structure shall be located less than 100 feet from any occupied residential building.
 - c. *Rear.* The minimum rear line spacing for industrial buildings or structures including outdoor storage areas shall be 25 feet from the foundation except that for such buildings, structures or areas abutting residential areas such minimum spacing shall be 50 feet, and except further that no such building or structure shall be located less than 100 feet from any occupied residential building.
 - (5) *Construction materials.* At least 80 percent of the front side of industrial buildings, as well as any other sides that face adjacent residential areas, shall be finished with face brick, wood, glass, stone, fluted cement block or future acceptable building materials compatible with surrounding properties. All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.

- (6) *[Utilities.]* All utility lines shall be underground.
- (7) *Landscaping, fencing and signs.*
- a. *Landscaping.* All ground surfaces between the edges of public or private roads and streets and the property line shall be landscaped and maintained as such. All unused areas must be landscaped or kept natural.
 1. For property lines abutting a residential district a screen of fencing, berms, plantings or a combination of these not less than six feet above ground level shall be provided. If plantings alone are used such plantings must provide a 30-foot wide strip that will present a solid sight barrier.
 2. Fencing must be solid, berms must be landscaped and screen plantings shall retain foliage throughout the year. The site plan shall include a planting plan giving the numbers, species and height of plantings at time of installation.
 3. Maintenance of fencing, berms and plantings following installation is the responsibility of the property owner. A performance bond covering maintenance of plantings until established and construction of fencing and berms may be required by the township.
 - b. *Fencing.* Except for loading and unloading docks and employee and visitor parking areas, all uses not in an enclosed building must be enclosed by a solid fence not less than six feet in height. An alternative screening feature such as a berm in combination with obscuring vegetation, fencing or walls may be approved when in the judgment of the Zoning Commission (Zoning Commission (Planning Commission)) such alternative screening, taken in context of the specific location and outdoor use, would provide equal or better permanent year round noise and visual protection.
 - c. *Signs.* Signs in an industrial district shall comply with the provisions of section 4.18 of this ordinance.
- (8) *Road and streets.*
- a. *Private roads and streets.* All private road and streets must be hard surfaced and must comply with the sections of the ordinance dealing with private roads and streets.
 - b. *Ingress and egress.*
 1. Access roads serving an industrial development containing more than one industrial operation shall be designed to include a dual throat at the public-street intersection. The raised island in the driveway throat shall be a minimum of ten feet in width and 30 feet in length. The ingress lane shall be a minimum of 16 feet wide and the egress lane shall be a minimum of 22 feet wide. Final driveway throat geometrics are subject to the approval of the Van Buren County Road Commission.
 2. An access road intersection wholly within the industrial district shall have not less than a 66-foot wide easement. If such an intersection abuts nonindustrial property with the easement shall be not less than 80 feet wide.
 3. For an industrial development larger than 20 acres that will serve more than one industrial operation the township may require provision in the site plan for an additional ingress-egress road.
- (9) *Parking.* All parking areas must be in compliance with this ordinance.
- (10) *External lighting.* All industrial operations shall comply with the lighting provisions of sections 4.09 and 4.12 and the additional standards below. Exterior lighting shall be designed and constructed in such a manner to:
- a. Insure that direct or directly reflected light is confined to the development site.
 - b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare-free area beyond the property line and beyond any public right-of-way. The light source shall not be

directly visible from beyond the boundary of the site and light rays may not be emitted by the installed fixture at angles above the horizontal plane of the fixture.

- c. The light from any illuminated source shall be designed so that the light intensity or brightness will not be objectionable to surrounding areas.
 - d. Light sources shall be low-pressure sodium or similar fixtures which emit light that may be filtered for astronomical viewing.
 - e. No elevated exterior light fixture, including, but not limited to, light poles, canopy lights, soffit lights and similar fixtures, shall exceed 14 feet in height.
 - f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
 - g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- E. *Change in occupant or tenancy.* Approval of site plans and special exception uses shall apply to the uses and tenants proposed at the time of application. In the I Industrial District, a change in the nature of the tenancy or occupancy of a previously approved building may require a new or revised site plan, unless the zoning administrator determines that the proposed new use is reasonably able to comply with all conditions of approval pertaining to the original site plan.

(Amend. eff. Dec. 21, 2009)

Sec. 3.08. - EO Environmental [Buffer] Overlay District.

- A. *Description of district.* The intent of this district is to provide a level of protection to environmentally sensitive areas beyond that which is required in the underlying zoning district. The township has identified these sensitive areas through the use of an overlay classification. With this method, underlying land use classifications aid in determining uses and densities, but the overlay indicates that the area is in need of special site plan and development considerations. Among these considerations are shoreline buffers, deeper setback limits and the need for additional site specific studies during site plan review.

Future development should be planned in consideration of the natural and aesthetic environment. Minimizing impervious surface area, establishing shoreline buffers and setback areas, instituting regular septic system inspection, and limiting the application of landscape chemicals are suggested mechanisms for conserving the quality of Porter Township's inland waters.

All proposed land uses in the Environmental Buffer Overlay [District] except single-family residences located on a private lot shall be subject to site plan review by the Zoning Commission (Zoning Commission (Planning Commission)) and approval by the township board.

- B. *Setback from lakes, ponds, swamps, streams, and rivers.* Subject to any water resources commission or health department regulations which may be more stringent than this ordinance, any building constructed on a lot abutting a lake, pond, swamp, stream, river, drainage ditch, or similar water body, shall be set back at least 75 feet from the water's edge, except:
- (1) Those buildings in existence at the time of passage of this ordinance.
 - (2) Where the majority of the property abutting said water line within 500 feet of a vacant lot has been built upon at the time of passage of this ordinance. The setback of any building hereafter erected on said vacant lot shall not be required to be greater than the average setback of the improved three properties on either side, total of six.
 - (3) One-story boat houses used exclusively for boating and bathing facilities which may be constructed at the water's edge, but not over the water. Only temporary docks and temporary boat shelters may be constructed out into the lake.

In the event of a controversy concerning the location of the water's edge for the purposes herein set forth the determination of the board of appeals established under statute and this ordinance, shall be conclusive on such questions.

C. *Required greenbelts.* A greenbelt of natural vegetation shall be maintained on all properties within the Environmental Buffer Overlay District subject to the following requirements at a minimum:

- (1) A 100-foot-minimum greenbelt shall apply on each side of the main tributaries in the township. On all other designated water bodies and wetlands, a 50-foot restricted cutting strip shall apply. Distances of the natural vegetation strip are measured horizontally from the water's edge or wetland or established high water mark, whichever is greater.
- (2) Greenbelt buffer zones of at least 25 feet shall be required between residential structures and adjacent undeveloped or conservation uses to the side and rear of the property. This does not replace the requirements of subsection a along the water side of the property. The buffer areas shall be appropriately planted with native grasses, forbs, shrubs and/or trees.
- (3) Within any land to be subdivided, the greenbelt buffer zone may be included in the area to be subdivided or within any designated open space. However, the buffer zone shall not be included in calculations for determining more than 50 percent of the area is open space.
- (4) The entire extent of wetland and floodplain areas shall not be altered, dredged, filled, piped, diverted, or built upon except where all applicable local, state, and/or federal permits have been obtained.
- (5) Developments which are proposed within 100 feet of an identified wetland, according to the Porter Township Land Use Plan, may be required to have additional studies completed at the applicant's cost. The applicant shall choose the consultant from a list of qualified firms.

D. *Design standards.*

- (1) Within the Environmental Buffer Overlay District, it is the intent of Porter Township to allow development that may aid in permanently preserving the open space, agricultural lands, woodlands, wetlands, critical views and other natural features of rural Porter Township.
- (2) In general, the organization of land and structures within the Environmental Buffer Overlay District shall seek to maximize conservation values. The use of land and structures also must conform to the following design standards:
 - a. Maximum building coverage, including primary and accessory structures shall be ten percent of total lot area.
 - b. Maximum total impervious coverage, including structures and other impervious surfaces shall be 15 percent of total lot area.
 - c. The site shall be designed to preserve natural features whenever feasible.

Sec. 3.09. - IA Industrial Agricultural.

- A. *Intent.* To meet the needs of those engaged in agricultural pursuits and to enhance, in an orderly manner, the agricultural interests of the township, the purpose of this district is to provide convenient locations for processing, shipping, receiving and warehousing of products.
- B. *Principal uses.* Fruit and vegetable production and processing and other agricultural processing facilities including shipping and receiving stations for such products, both raw and processed; freezer and cold storage and general commercial warehousing. Also, the manufacturing of packaging and products related to processing agricultural foodstuffs (including related offices and retail sales).
- C. *Restrictions.* All vats, tanks and other similar structures located within 1,000 feet of any residential dwelling shall be appropriately screened.
- D. *Site development standards.*

- (1) *Height.* No industrial building or structure shall exceed the lesser of 35 feet or two and one-half stories.
- (2) *Lot area and lot width.* The minimum lot area for use in this district shall be one acre with a minimum lot width of 220 contiguous feet. No more than 35 percent of the lot area shall be occupied including outdoor storage areas, but excluding employee and visitor parking areas.
- (3) *Setback and sideline spacing.* No building or structure for industrial use, nor the enlargement of any such building or structure shall be erected unless the following setback and side line spacing requirements are met:
 - a. *Setbacks.*
 1. *Front.* The minimum setback line for residential [industrial] buildings or structures shall be 50 feet from the foundation to street or state highway right-of-way lines, or public road easement lines, abutting a parcel.
 2. *Side.* The minimum side line spacing for industrial buildings or structures, including outdoor storage areas, shall be 30 feet except that for such buildings, structures, or areas abutting a residential area such minimum spacing shall be 50 feet, and except further that no such building or structure shall be located less than 100 feet from any occupied residential building.
 3. *Rear.* The minimum rear line spacing for industrial buildings or structures, including outdoor storage areas, shall be 25 feet from the foundation except that for such buildings, structures or areas abutting residential areas such minimum spacing shall be 50 feet, and except further that no such building or structure shall be located less than 100 feet from any occupied residential building.
- (4) *Construction materials.* At least 80 percent of the front side of industrial buildings, as well as any other sides that face adjacent residential areas, shall be finished with face brick, wood, glass, stone, fluted cement block or future acceptable building materials compatible with surrounding properties. All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
- (5) *[Utilities.]* All utility lines shall be underground.
- (6) *Landscaping, fencing and signs.*
 - a. *Landscaping.* All ground surfaces between the edges of public or private roads and streets and the property line shall be landscaped and maintained as such. All unused areas must be landscaped or kept natural.
 1. For property lines abutting a residential district a screen of fencing, berms, plantings or a combination of these not less than six feet above ground level shall be provided. If plantings alone are used such plantings must provide a 30-foot wide strip that will present a solid sight barrier.
 2. Fencing must be solid, berms must be landscaped and screen plantings shall retain foliage throughout the year. The site plan shall include a planting plan giving the numbers, species and height of plantings at time of installation.
 3. Maintenance of fencing, berms and plantings following installation is the responsibility of the property owner. A performance bond covering maintenance of plantings until established and construction of fencing and berms may be required by the township.
 - b. *Fencing.* Except for loading and unloading docks and employee and visitor parking areas, all uses not in an enclosed building must be enclosed by a solid fence not less than six feet in height. An alternative screening feature such as a berm in combination with obscuring vegetation, fencing or walls may be approved when in the judgment of the Zoning Commission (Zoning Commission (Planning Commission)) such alternative screening, taken in context of the specific location and outdoor use, would provide equal or better permanent year round noise and visual protection.

- c. *Signs.* Signs in an industrial district shall comply with the provisions of section 4.18.

(Amend. eff. Dec. 21, 2009)

Sec. 3.10. - Table.

The table accompanying this ordinance, entitled the "Summary of Site Development Regulations" is hereby incorporated as part of this ordinance. The table has been included in this ordinance for convenience of administration and implementation of various requirements applicable in the zoning districts. The table supplements but does not supplant any of the specific provisions of this ordinance. In the event of any ambiguity or uncertainty concerning the provision of the table, or any real or apparent conflict between the table and any specific provision of this ordinance, the specific provisions of this ordinance shall at all times control.

ARTICLE IV. - SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 4.01. - Minimum dwelling size and conditions.

In addition, all dwellings shall meet the following minimum standards:

- A. Minimum size of a dwelling unit shall be 960 square feet of floor area per dwelling unit, including manufactured homes;
- B. Nine hundred sixty (960) square foot minimum on the first floor; and a minimum of 24 feet wide entire length of building
- C. Must have a HUD seal;
- D. If the dwelling is a manufactured home, there can be no modifications from the original home;
- E. The dwelling must meet Michigan Building Code standards;
- F. If the dwelling is a modular or manufactured home, it must be less than ten years old.

Sec. 4.02. - Accessory structures and buildings.

- A. Accessory structures or buildings which are customarily accessory to specific principal uses for the zoning district in which they are located shall be permitted subject to the following regulations:
 - (1) Accessory structures or buildings which are attached to a principal use building shall be considered a part of the principal building and shall be subject to all applicable requirements of the zoning district in which it is located.
 - (2) Accessory structures or buildings which are not attached to a principal use building or structure shall not be placed in any required yard space. Such structures or buildings may be placed in side yard or rear yard spaces provided they are located no closer than ten (10) feet from the side or rear lot line.
 - (3) With the exception of lakefront property with a road easement less than sixty-six (66) feet wide, accessory structures shall be located no closer to the road right-of-way than twenty (20) feet.
- B. *Waterfront accessory structures.*
 - 1. The purpose of this section is to allow for and regulate the construction of portable accessory storage buildings or waterfront lots within that portion of a lot between a principle residence and the water's edge. Such a structure would be permitted only if intended and used to provide for the shelter or storage of equipment and other items of an accessory nature to the principle permitted use of the parcel.

2. On a waterfront lot, one (1) detached portable storage accessory structure may be located on that portion of the lot between the water's edge and the principle dwelling provided all of the following criteria are met:
 - a. It shall not exceed one hundred twenty (120) square feet in area and eight and one-half (8½) feet in height from grade level to the peak; and no one side shall exceed twelve (12) feet in length.
 - b. It shall be located a minimum of 3 feet from the side property line(s) and 3 feet from the ordinary high water mark as defined herein, or, in the case of an existing seawall, 3 feet from the waterside edge of the seawall, whichever is greater.
 - c. The area of such accessory structure shall be counted as part of the overall lot coverage on the lot.
 - d. The structure must be portable as defined by this ordinance.
3. The building materials and design of any accessory structure shall be similar to that of the primary building on the lot, and shall conform to neighboring uses and structures in accordance with the purpose of the district where it is located.
4. An accessory structure allowed pursuant to this section shall not be constructed without the issuance of a valid building or zoning permit by the township building inspector as required elsewhere in the ordinance.
5. No building or zoning permit shall be issued if, in the opinion of the building inspector, the peak of the proposed structure would be above the lowest grade elevation of any residence on each parcel immediately adjacent to the subject parcel. In the event a permit would be denied on this basis alone:
 - a. The building inspector shall have the authority to determine whether the location and/or dimensions of the proposed structure could be modified so that, in the opinion of the building inspector, the proposed structure would comply with the criteria set forth in paragraph 2 herein and not unreasonably interfere with the view of adjacent principal buildings, and issue a permit accordingly; or
 - b. The applicant can seek a variance from the Zoning Board of Appeals pursuant to the terms of the zoning ordinance.
6. "Portable accessory storage structure" is defined as a structure intended for the shelter or storage of equipment and other items of an accessory nature to the principal permitted use of the parcel and which is comprised of a self-supporting assemblage of material and is not permanently attached to a footing and foundation in compliance with the applicable building code.
7. "Ordinary high water mark" is defined as any legally established ordinary high water mark on waters; in the event there is no legally established high water mark, the ordinary high water mark shall be the line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and vegetation, as determined by the building inspector.

(Amend. eff. June 10, 2009; amend. eff. Dec. 21, 2009)

Sec. 4.03. - One dwelling structure upon a lot of record.

Every dwelling, exclusive of mobile homes located in a state licensed mobile home park and dwellings permitted as temporary uses, shall be located upon a lot of record. No more than one such dwelling structure shall be located upon a lot of record.

Sec. 4.04. - Roads and streets.

Purposes. To contribute to the public safety and welfare of present and future property owners by providing free and adequate ingress and egress of emergency vehicles, garbage and other service vehicles and the general users of roads to any future developed property within Porter Township, including new plats and those unplatted parcels of land which may not now front on a public road or street.

It is intended that this ordinance govern the construction of all new roads, streets, easements and right-of-ways to two or more land parcels. The word "road" used throughout this ordinance will refer to all of the above.

- (1) All new roads in Porter Township providing access to lands or lots that have been split from a larger parcel of land for the purpose of home sites, shall conform to standards and specifications of the Van Buren County Road Commission and shall, at the time of effect, consist of a minimum of 66 feet wide right-of-way. Said road must have a driveable surface of 22 feet width or more and be of bituminous construction within the said 66-foot right-of-way.
- (2) The above-described roads shall be identified to provide emergency vehicles access to lots and lands. All said roadways will be assigned a name or number by the township board and be registered with the township clerk and any appropriate county agency. These roads shall meet all other Porter Township ordinances as though said roads are the parcel's frontage.
- (3) Variances, rezonings or building permits will not be granted until the above specifications have been met.
- (4) Except as to the existing lots of record, every building designed or intended for human occupancy hereafter erected or relocated in Porter Township shall be erected or relocated upon a lot or parcel of land abutting a public street.

Sec. 4.05. - Agricultural buildings.

Agricultural buildings used exclusively and actively for farming operations shall generally be exempt from various inspections and fees. Please refer to separate schedule of fees.

Sec. 4.06. - Temporary dwellings.

A nonconforming manufactured home (herein called mobile home), basement, cellar, garage or suitable similar structure may be erected, constructed or moved upon a premises and used for temporary dwelling purposes only by a temporary use permit issued by the township zoning administrator and board of appeals in accordance to the following limitations:

- (1) Except as elsewhere provided in this ordinance for hardship cases and seasonal cottages, temporary use of a building, mobile home garage, cellar, basement or other structure shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a permanent dwelling conforming to the provisions of this ordinance is in the process of erection and completion, provided, however, that such period shall not exceed 12 consecutive months beginning with the date of issuance of a suitable bond payable to the township board.
- (2) Such use of any such building, mobile home, garage, basement or other structure for the temporary occupancy shall not be adverse to the public health, safety or general welfare.
- (3) The location of each such building, mobile home, garage, cellar, basement or other structure shall substantially conform to the regulations governing the yard requirements for dwellings in the district in which it is situated as though it were located on a separate lot.
- (4) Mobile homes used as a temporary housing under this section shall have approved septic tank, proper drainage and be connected to a pressure water system.
- (5) Application for a permit for the erection, movement, alteration, occupancy and use of such mobile home, garage, basement, cellar or other similar structure intended for temporary occupancy shall be made to the township on an appropriate form signed by the applicant which shall indicate that the applicant has read, understands and agrees to abide by all applicable provisions of this

ordinance. A permit under this section may be revoked if construction of the permanent dwelling is not commenced within six months after issuance of the temporary permit.

- (6) In the case of recreational vehicles providing temporary housing of guests or visitors on the premises, such use shall be permitted for a period of time not to exceed 30 days in any 12 consecutive month period, provided, that the occupants of the recreational vehicle shall have unrestricted use of the sewerage disposal and water supply facilities of the principal building.
- (7) Where there is a demonstrated financial or health-related hardship on the part of such occupants, provided a temporary occupancy permit is obtained from the zoning administrator after approval by the board of appeals. Such occupancy permit may, at the discretion of the Zoning Administrator, after approval by the board of appeals, be renewed for additional reasonable periods, not to exceed one year.
- (8) A seasonal cottage shall not be used as or converted to a single-family, two-family or multiple-family dwelling intended or used for permanent occupancy except upon compliance with all applicable provisions for such dwellings of this ordinance and other ordinances, laws and regulations which regulate the location, construction and use of single-family, two-family and multiple-family dwellings.

Sec. 4.07. - Home occupations.

Occupations engaged in within a dwelling by the resident or residents of the same complying with the following conditions and limitations:

- A. Are operated in their entirety within the dwelling and garage or accessory building located upon the premises.
- B. Are conducted by the person or persons occupying the premises as their principal residence and would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall additional assistants exceed two in number.
- C. The dwelling has no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
- D. The occupation conducted therein is clearly incidental and subordinate to the principal use of the premises for residential purposes.
- E. No goods shall be sold from the premises, which are not strictly incidental to the principal home occupation therein.
- F. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reasons of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance or the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.

Sec. 4.08. - Keeping of animals.

The keeping of customary domestic household pets is permitted under the terms of this ordinance in any zoning district. However, the keeping of any other animals, poultry, horses or livestock shall be a permitted principal use only in the A-OS, Agricultural-Open Space districts.

Sec. 4.09. - General lighting requirements.

- A. All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public on public highways.

- B. Except as otherwise provided in this zoning ordinance, all premises used for business, commercial or industrial purposes shall be screened from adjoining premises located in residential districts by one of the following:
- (1) A natural compact planting area of evergreens or shrubbery which maintains its density and screening effect throughout the calendar year, not less than four feet in height at the time of planting and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
 - (2) An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained in a neat and attractive manner.
 - (3) No such planting area, wall or fence shall be closer than ten feet from any adjoining street right-of-way line.

Sec. 4.10. - Fences (residential).

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

- A. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed 6.0 feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house, or the minimum required front yard, whichever is greater, unless the fence is opaque.
- B. Fences in all districts that are within eight (8) feet of a property line shall be constructed such that supporting posts and framework are on the interior or fence owner's side of the fence and that the sheathing or facing of the exterior as seen from adjoining properties or the street is the more presentable and attractive side of the fence. Also, consideration should be given to whether a proposed fence enhances the neighborhood or blocks scenic views for nearby property owners.
- C. Fences on lots of record in residential districts shall not contain barbed wire, electric current, or charge of electricity.
- D. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated with an area developed with recorded lots, shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total surface area.
- E. Line fences marking property lines, may be permitted in all yards in areas designated as farms or agricultural areas.

(Amend. eff. Sept. 8, 2010)

Sec. 4.11. - Condominium projects.

The following regulations shall apply to all condominium projects within the Township of Porter, Van Buren County, Michigan.

- A. *Condominium subdivision approval.* Pursuant to authority conferred by section 141 of the Condominium Act, Act 59 of 1978, as amended, all condominium subdivision plans must be approved by the Zoning Commission (Zoning Commission (Planning Commission)). In determining whether to approve a condominium subdivision plan, the Zoning Commission (Zoning Commission (Planning Commission)) shall consult with the township clerk, township supervisor, township attorney, township engineer, township building inspector and township zoning administrator, regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act.

- (1) *Definitions.* The following terms are defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of the zoning ordinance and the subdivision control order with the Condominium Act.
 - a. *Condominium Act* means Act 59 of 1978, as amended.
 - b. *Condominium subdivision* shall be equivalent to the term "subdivision" as used in the zoning ordinance and the subdivision control ordinance.
 - c. *Condominium subdivision plan* means the site, survey and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries, and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location and approximate size of common elements.
 - d. *Condominium unit* means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.
 - e. *Consolidating master deed* means the final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.
 - f. *Contractible condominium* means a condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this ordinance and the Condominium Act.
 - g. *Conversion condominium* means a condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.
 - h. *Convertible area* means a unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provisions in the condominium documents and in accordance with this ordinance and the Condominium Act.
 - i. *Expandable condominium* means a condominium project to which additional land may be added pursuant to express provisions in the condominium documents and in accordance with this ordinance and the Condominium Act.
 - j. *Front yard setback* shall be equal to the distance between the front yard area line and the condominium dwelling.
 - k. *Lot* shall mean the same as "home site" and "condominium unit."
 - l. *Mobile home condominium project* means a condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.
 - m. *Master deed* means the condominium document recording the condominium project as approved by the township board to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.
 - n. *Rear yard setback* shall be equal to the distance between the rear yard area line and the condominium dwelling.
 - o. *Side yard setback* shall be equal to the distance between the side yard area line and the condominium dwelling.
- B. *Initial information.* Concurrently with notice required to be given the Township of Porter pursuant to section 71 of Public Act 59 of 1978, as amended (MCL 559.171), a person, firm or corporation

intending to develop a condominium project shall provide the following information with respect to the project:

- (1) The name, address and telephone number of:
 - a. All persons, firms or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee or land contract vendee).
 - b. All engineers, attorneys, architects or registered land surveyors associated with the project.
 - c. The developer or proprietor of the condominium project.
 - (2) The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
 - (3) The acreage content of the land on which the condominium project will be developed.
 - (4) Condominium purpose shall be limited to residential only.
 - (5) Approximate number of condominium units to be developed on the subject parcel.
 - (6) Whether or not a community water system is contemplated.
 - (7) Whether or not a community septic system is contemplated.
 - (8) A survey plan of the condominium subdivision.
 - (9) A floodplain plan, when appropriate.
 - (10) A site plan showing the location, size, shape, area and width of all condominium units.
 - (11) A utility plan showing all sanitary sewer, water and storm sewer lines and easements granted to the township for installation, repair and maintenance of all utilities. The plan shall include all necessary easements granted to Porter Township for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter collectively called "public structures") for the purpose of providing public utilities, including conveyance of the sewage, water, and stormwater runoff across, through and under the property subject to said easement and excavating and refilling ditches and trenches necessary for the location of said structures.
 - (12) All street construction, paving and maintenance plan for all private streets within the proposed condominium shall conform to county specifications or public roads.
 - (13) A storm drainage and stormwater management plan, including all lines, swales, drains, basins and other facilities.
- C. *Information to be kept current.* All information shall be furnished to the township clerk and shall be kept updated until such time as a certificate of occupancy has been issued.
- D. *Site plans—New projects master deed, engineering and inspections.* Prior to recording of the master deed required by section 72 of Public Act 59 of 1978, as amended (MCL 559.108), the condominium project shall undergo site plan review and approval pursuant to the ordinance. In addition, the township shall require appropriate engineering plans and inspections prior to the issuance of any certificates of occupancy.
- E. *Site Plans—Expandable or convertible projects.* Prior to expansion or conversion of a condominium project to additional land, the new phase of the project shall undergo site plan review and approval pursuant to this ordinance.
- F. *Master deed, restrictive covenants, and as-built survey to be furnished.* The condominium project developer or proprietor shall furnish the township with the following: one copy of the recorded master deed, one copy of all restrictive covenants, and two copies of an "as-built survey." The "as-built survey" shall be reviewed by the township for compliance with the township's ordinances. Fees for this review shall be established by resolution of the township board.

- G. *Monuments required—Site condominium projects.* All condominium projects which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites shall be marked with monuments as provided in this subsection.
- (1) Monuments shall be located in the ground and made according to the following requirements. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
 - (2) All monuments used shall be made of solid iron or steel bars at least one-half inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
 - (3) Monuments shall be located in the ground at all angles in the boundaries of the condominium project: at the intersection lines of streets; at the intersections of the lines of streets with the boundaries of the condominium project; at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, point of reverse curvature and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line; and at the intersection of all limited common elements and all common elements.
 - (4) If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby with the precise location thereof being clearly indicated on the plans and referenced to the true point.
 - (5) If a point required to be monumented is on a bedrock outcropping, a steel rod at least one-half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
 - (6) All required monuments shall be placed flush with the ground where practicable.
 - (7) All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half inch in diameter, or other approved markers.
 - (8) The township board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the township clerk cash, or a certified check, or irrevocable bank letter of credit running to the township, whichever the proprietor selects, in an amount not less than \$25.00 per monument and not less than \$100.00 in total. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
- H. *Monuments required—All condominium projects.* All condominium projects shall be marked at their boundaries with monuments meeting the requirements of subsection 7.B above.
- I. *Compliance with federal, state and local law.* All condominium projects shall comply with Federal and State Statutes and local ordinances, including, but not limited to, zoning and building codes.
- J. *State and county approval.* The developer or proprietor of the condominium project shall establish that appropriate state and county approvals have been received with regard to the fresh water and waste water disposal systems for the proposed project.
- K. *Temporary occupancy.* The township may allow occupancy of the condominium project before all improvements required by this ordinance are installed provided that bond is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the township.
- L. *Single-family detached condominiums.* Single-family detached condominiums shall be subject to all requirements and standards of the applicable zoning district, including minimum floor area requirements. For the purpose of computing density, the number of computing density, the number of units per gross acre shall not exceed 2.9 units per acre in developments without community water and sanitary sewer systems, or 3.8 units per acre in developments with community water and sanitary sewer systems. There shall be maintained a minimum distance of 90 feet from the center of one residential dwelling unit to the center of another residential dwelling unit. This 90-foot requirement shall

be computed along the front building line. In addition, building envelopes shall be depicted on the site plan to assure that the minimum 25-foot front yard, 35-foot rear yard, ten-foot side yards.

- M. *Streets and roads.* All streets and roads in a condominium project shall, at a minimum, conform to the standards and specifications promulgated by the Van Buren County Road Commission for a "typical residential road" in single-family residential subdivisions.
- N. *Site plan.* After submittal of the condominium plan and bylaws as part of the master deed, the proprietor shall furnish to the township a copy of the site plan on a photographic hard copy, laminated photostatic copy or mylar sheet of at least 13 x 16 inches with an image not to exceed ten and one-half by fourteen (10½ x 14) inches.
- O. *Board of appeals.* No construction, grading or other development activity shall commence until the final site plan has been approved the township board, all conditions to commencement of construction have been met and all applicable approvals or permits from other governmental bodies have been obtained for the projects.

Sec. 4.12. - Vehicular parking space, access and lighting.

For each commercial, industrial, manufacturing or other similar business or service establishments hereafter erected or altered, and located on a public highway, road or street in the portions of the township and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the right-of-way for the parking or loading of vehicles. Such space shall be provided with safe entrance from the public thoroughfare. Approval for the location of such exit and entrance shall be obtained from the Michigan State Highway Department for all highways under their jurisdiction and from the County Road Commission for all other roads and highways in the township, which approval shall also include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.

A minimum of 200 square feet exclusive of drive entrances and exits shall comprise one automobile parking space. All parking spaces as required in this section, except that required for dwellings, shall be provided with adequate artificial lighting between the time extending from one-half hour after sunset and one-half hour before sunrise, when the use of such space is open to the public.

Sec. 4.13. - Junkyards/landfills.

There shall be no landfills, dumps or junkyards in any area of the township.

Sec. 4.14. - Planned unit development (PUD).

- A. *Intent.* The intent of the PUD regulations is to permit greater flexibility and, consequently, more creative and imaginative design for the development of residential areas and compatible commercial and industrial areas, than generally is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing for a harmonious variety of housing choices, a higher level of residential amenities, an integration of compatible mixed land uses and the preservation of natural scenic qualities of open spaces. The planned unit development regulations pertaining to planned unit developments, the conditions that create planned unit development eligibility, the participants in the review process, the requirements and standards upon which applicants will be reviewed and approval granted, as well as the procedures required for application, review, and approval are as set forth in this section of the ordinance as required by state law.
- B. *Development objectives.* The intent of a PUD is to be realized through fulfillment of the following basic objectives:
 - (1) *Design flexibility.* To promote flexibility in design and permit planned diversification in the location of structures;
 - (2) *Efficient land use.* To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities;

- (3) *Natural features preservation.* To preserve to the greatest extent possible the existing landscape features and amenities and to utilize such features in a harmonious fashion;
 - (4) *Recreation facilities.* To provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures; and,
 - (5) *Site design.* To combine and coordinate architectural styles, building forms and building relationships within the planned unit developments.
- C. *Eligibility.* Subject to the following criteria and standards, planned unit developments may be permitted under this ordinance only in areas zoned Agricultural-Open Space and Residential as a special use, in accordance with the provisions of article V and subject to compliance with the objectives and standards of this section.
- D. *Standards.* In addition to the approval standards set forth in article V, section 5.05, the following standards must be considered when approving, denying or approving with required conditions and application for a PUD:
- (1) The application proposed is a planned unit development as defined by this ordinance;
 - (2) A planned unit development may be permitted when a landowner, or group of owners acting jointly, can plan and develop a tract of land as an entity and thereby qualify for regulation of that tract of land as one complex land use unit, rather than an aggregation of individual buildings located on separate, unrelated lots;
 - (3) The proposed planned unit development is on a parcel which is at least five (5) acres in gross area and the area available for development (net acreage) shall not be less than one-half the gross acreage;
 - (4) The development will be compatible with adjacent land uses and the natural environment;
 - (5) The development is warranted by the design of open space and/or additional amenities made possible by the proposal, or it can be demonstrated that the needs of the community will be better served by a private plan which combines multiple structures or uses on one or more contiguous parcels;
 - (6) Each use contemplated in the planned unit development is listed as a permitted use or a special use in the zoning district in which the planned unit development is located or a permitted;
 - (7) The density proposed represents the maximum number of housing units or principal structures which would otherwise be permitted by the underlying zoning district;
 - (8) The provisions of this section may be implemented by reducing the minimum lot area and lot width standards of section 8.7 provided that the standards of the Van Buren County Health Department are met;
 - (9) In addition to altering minimum lot area and lot width standards of the underlying zoning district, the township may also waive, wholly or in part, any usable floor area requirement, setback, or maximum height, specified by the restrictions of the respective zoning district, if doing so results in:
 - a. Additional public property in the development and/or public easement on property in the development that is acceptable to the township; and/or,
 - b. Public park land developed in or near the development; and/or,
 - c. Some other public value to the township.
 - (10) If a proposed use in a planned unit development is a retail trade, finance, insurance or real estate service, or service and is not listed as a permitted use or a special use in the respective district in which the planned unit development is proposed, the use may still be a part of the planned unit development if the following conditions are met:

- a. Operation of the use will be conducted entirely within an enclosed building except for parking, signs, arrival and departure of merchandise or supplies and other activities incidental thereto which are not permanent in nature;
- b. All outside accessory and work areas will be enclosed by a solid wall;
- c. The principal structure will be 600 square feet in building area or larger;
- d. The total interior floor area of all principal and accessory structures does not exceed 3,000 square feet.

(11) Development under this option shall not be dependent upon the establishment of a public sewer or public water supply system.

(12) Van Buren County Health Department standards relating to the suitability of groundwater for on-site water supply and the suitability of soils for on-site sewage disposal shall apply.

E. *Application process for a PUD.*

(1) *Preliminary conference.* An informal preapplication conference between the proponent of the PUD and township planning officials and township engineer is recommended although not mandatory. The conference allows the developer to present concept plans for the PUD to local planners. Township officials will explain the PUD regulations and process, and provide guidance and direction to the developer in complying with all requirements, issues, and policies. The conference enables the developer to decide to proceed with site designs as presented or to change the design as necessary to meet requirements.

(2) *Submission and review of preliminary site plan.* A preliminary site plan shall be submitted in accordance with article V, section 5.04. The purpose of the preliminary site plan review is to provide a mechanism whereby the applicant obtains a substantial review of the proposed project in order to prepare a final PUD site plan, and to execute necessary agreements between the developer and the township. A comprehensive presentation shall be made at a public hearing called by the Zoning Commission (Zoning Commission (Planning Commission)) for review and recommendation to the township board. The preliminary PUD site plan shall include the following:

- a. *[Contents.]* Contents specified in article V, section 5.03; and,
- b. *Construction schedule.* A development schedule indicating the approximate date when construction of the PUD, or phases of the PUD can be expected to begin and be completed.

(3) *Public hearing.* The Zoning Commission (Zoning Commission (Planning Commission)) shall publish a notice for a public hearing in a local newspaper. The notice shall be given consistent with the requirements for notice of a public hearing to consider a proposed rezoning or zoning amendment as provided for in the Michigan Zoning Enabling Act, Public Act 110 of 2006.

(4) *Zoning Commission (Zoning Commission (Planning Commission)) action.* After a public hearing has been held by the Zoning Commission (Zoning Commission (Planning Commission)), the Zoning Commission (Zoning Commission (Planning Commission)) shall make a recommendation on the PUD application and the preliminary site plan to the township board.

(5) *Township board review.* The township board shall consider the recommendations forwarded by the township Zoning Commission (Planning Commission) review the preliminary site plan and related documents, and make a decision on the PUD application and preliminary site plan.

(6) *Township board action.* If the preliminary site plan contains the information required by this ordinance, is in compliance with this ordinance and the township master plan, and conforms to any conditions imposed pursuant to this ordinance, other applicable ordinances and state statutes, the preliminary site plan shall be approved.

F. *Submittal of final site plan.*

(1) *Final use approval.* The purpose of final site plan review is to approve the PUD comprehensive plan and agreement for the entire PUD including final plans for items listed and all other required conditions, and to approve the areas of the final plan for specific use.

- (2) *Phased development.* If the entire PUD is to be built in phases, then plans for specific use areas can be submitted as required as long as each phase of development is in conformance with all requirements of this ordinance.
 - (3) *Land use permits.* Land use permits for any or all phases of development shall not be issued until plans for the entire PUD or each specific use area have received final approval by the township board upon recommendation of the Zoning Commission (Planning Commission).
 - (4) *[Procedure for approval.]* The procedure to be followed for approval of the final site plan is that set out for preliminary site plans in subsection 4.14(E) herein.
- G. *Amendments.* Amendments to an approved planned unit development shall be handled in the same manner as the initial application. Minor, nonsubstantive changes may, however, be made to the special use permit by mutual agreement between the township and the applicant without further public hearing, if done prior to the issuance of an occupancy permit for the use affected by such change.

Sec. 4.15, - Waterfront lot setbacks.

- A. District setback regulations shall apply except that in no case shall any structure be closer to the waters edge than the average of three adjacent dwellings on each side.
- B. Waterfront lots are defined as a lot that abuts a water, stream, pond, river or lake.
- C. For purposes of rear yard setbacks, the rear yard setback shall be from the normal high water mark and that portion of the lot lying between high water mark and building shall be considered be the rear yard.

Sec. 4.16. - Open space community development.

- A. *Purpose.* To provide for the flexibility in the regulation of land development; to assure the permanent preservation of substantial open space and other natural resources; to encourage innovation and greater flexibility in the design of residential developments; to facilitate the construction and maintenance of streets, utilities and public service in a more sustainable, economical and efficient manner; to provide for site development that maintains a low visual impact, particularly along roadways and abutting properties; ensuring compatibility of design and use between neighboring properties; and encourage a less sprawling form of development, thus preserving open space and natural features consistent with the township's rural character and enhancing the health, safety and welfare of its residents.

This ordinance is not intended as a devise for ignoring the zoning regulations of the township, the standards set forth herein, nor the planning concepts upon which the zoning ordinance has been based.

- B. *Scope.* This ordinance is established to satisfy the requirements of P.A. 177 of 2001 (commonly referred to as the Open Space Preservation Act). The Act requires that qualified townships provide, at the option of the landowner, for the clustering of residential units on a portion of the property provided that 50 percent or more of the land is preserved as permanent open space, by legal means that run with the land. Open space community projects are designed for residential developments that have a density of three units per acre or less (with public sewer) or two units per acre or less (without public sewer). The "Agricultural" and "R" zoning districts meet those standards.

An open space community development may be created through a land division, a subdivision, site condominium subdivision, and/or planned unit development (PUD). In addition to this ordinance, land divisions, plats, and/or site condominiums are subject to the Land Division Act of 1996, as amended, and the Condominium Act of 1978, as amended. subdivisions and site condominiums are also subject to the township ordinance pursuant to the Michigan Subdivision Control Act of 1967, Land Division Ordinance, and Condominium Projects Ordinance.

- C. *Definitions.*

One-hundred-year floodplain. The area of land adjacent to a stream that is subject to inundation during a storm event that has a recurrence interval of 100 years.

Open space. A portion of a development site that is permanently set aside for the public or private use and will not be developed. Open space may be used as community open space, agricultural open space, or preserved as green space.

Open space community development. A development pattern that arranges the layout of buildings in a compact area of the site so as to reserve a portion of the site for open space and is protected in perpetuity.

Primary conservation areas. These include wetlands, floodplains, and areas where steep slopes predominate.

Right-of-way. The width of a public or private roadway that encompasses the pavement width and the adjacent land needed for placement of sidewalks, utilities, and storm water drainage.

Secondary conservation areas. These areas include important natural resources such as prime and unique farmlands, prime timber production areas, groundwater recharge areas, river and stream corridors, as well as other significant wildlife habitat. Cultural and aesthetic areas may be incorporated, such as historic sites and structures, greenways and trails, and scenic vistas.

Single-loaded streets. Streets with houses located on only one side, thereby affording the homeowner with more expansive views.

Stream buffer. A vegetated area bordering a stream or wetland that exists or is established to protect a water way system. Alteration of this vegetated area is strictly limited.

Unbuildable land. The area of a site that includes wetlands and submerged areas, slopes of 25 percent or more, and lands within the 100-year floodplain.

Wetlands. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Yield plan. A plan prepared to determine the density that could be realized with a conventional layout, given existing constraining features (unbuildable land). The yield plan need not be heavily engineered, but must be to scale and follow zoning ordinance requirements.

D. *Open space community provisions.* Open space community projects shall be subject to the following standards:

- (1) *Minimum size.* The minimum size of an open space community development shall be 20 acres of contiguous land.
- (2) *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.
- (3) *Guarantee of open space.* The applicant shall guarantee to the satisfaction of the township Zoning Commission (Planning Commission) that all open space portions of the development will be maintained in the manner approved. Documents shall be recorded that bind all successors and future owners in fee title to commitments made as part of the proposal.

E. *Project design standards.* The open space community development shall comply with the following design standards:

- (1) *Location.* An open space community development may be approved upon any agricultural or residentially zoned land in the township.
- (2) *Permitted uses.* An open space community development shall not be permitted for multiple residential or commercial developments. An open space community development is restricted to single-family residential dwellings.

- (3) *Base zoning regulations.* Unless specifically waived or modified by the Zoning Commission (Planning Commission), all zoning ordinance requirements for the underlying zoning district, except for minimum lot area, and other township regulations shall remain in full force. In no event shall the minimum lot be greater than 30,000 square feet.
- (4) *Open space requirements.* An open space community shall maintain a minimum of 50 percent of the gross area of the site as dedicated open space held in common ownership.
- a. Designated primary and secondary conservation areas (the open space) shall be set aside as common land for low impact recreation, conservation, agricultural uses, or preserved in a natural state.
 - b. Designated open space shall be set aside by the developer by an irrevocable conveyance that is found acceptable to the Zoning Commission (Planning Commission), such as:
 1. Recorded deed restrictions,
 2. Covenants that run perpetually with the land,
 3. A conservation easement established pursuant to the State of Michigan Conservation and Historic Preservation Act, public Act 197 of 1980, as amended, or
 4. Conservation land trusts.
 - c. Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on the approved site plan, and shall never change to another use. Such conveyance shall also:
 1. Indicate the allowable uses of the dedicated open space;
 2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space;
 3. Provide standards for the scheduled maintenance of the open space; and
 4. Provide for maintenance to be undertaken by the township in the event that the dedicated open space is inadequately maintained, if it is determined by the township to be a public nuisance, with the assessment of costs upon the property owners.
- (5) *Open space determination.* Open space shall be comprised of primary and secondary conservation areas. Primary conservation areas are predetermined by the location of unbuildable land, such as wetlands. Secondary conservation areas shall be based on natural features and open space or agricultural and recreational elements of the project site plan.
- a. Deducting the primary conservation areas from the gross parcel area yields the adjusted parcel area. A minimum of 50 percent of the adjusted parcel area shall be designated as secondary conservation area, as defined and explained below.
 - b. Secondary conservation areas shall provide an upland buffer of natural native species of at least 100 feet or greater as required by law and when adjacent to wetlands and surface waters, including ponds and natural drainageways.
 - c. Where open space is held in noncontiguous parcels, no open space shall consist of less than two acres, or have a length-to-width ratio of greater than 4:1. Exceptions to this requirement shall include areas specifically designated as trail links, wetland and water body buffers, active recreational facilities or formal community spaces such as village greens.
- (6) *Areas not considered to be open space.* The following activities or land uses may not be counted as part of the designated open space:
- a. Rights-of-way.
 - b. Land devoted to a residential unit, accessory use, vehicle access, parking, and approved land improvements, including setbacks and lawns.

- c. Wetlands.
- (7) *Allowable structures.* Any structure(s) or building(s) accessory to a recreation, conservation, or agricultural use may be erected within the dedicated open space, subject to the approved site plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent of the required open space.
- (8) *Other permitted uses.* Open space may be used for the following other purposes:
 - a. Underground drainage fields for individual or community septic systems as approved by the Van Buren County Health Department. Mound systems and aerated sewage treatment ponds shall occupy no more than ten percent of the secondary conservation area open space.
 - b. Stormwater management/detention ponds may be included and/or constructed in the secondary conservation area open space.
- F. *Density determination.* Permitted project density shall be determined based on the submittal of a yield plan.
 - (1) *Yield plan.* The yield plan shall depict a conventional lot and road layout that conforms to the applicable local requirements, including the zoning district in which it is located. Lots must be sized based on soil suitability to accommodate individual septic systems, if municipal sewer is not available. Primary conservation areas (see definitions section) shall be depicted on the yield plan and excluded from the layout of conventional lots. Land occupied by permanent easements that restrict construction, such as utility transmission, road access, and drainage, shall also be excluded from the buildable area. The maximum number of permitted dwelling units shall be based upon the number of conventional units depicted on the yield plan.
 - (2) *Incentive bonuses.* To encourage use of open space community project provisions in development, the Zoning Commission (Planning Commission) shall have the option of awarding increases in dwelling density of up to 20 percent when the developer compensates for the increased density by employing exceptional site planning and landscape design, and/or preserving substantial areas or natural assets and satisfies to a extraordinarily high degree the review criteria listed below.
 - a. *Design.* A density increase bonus of up to ten percent may be awarded when design factors make a substantial contribution to the review criteria and objectives described in this ordinance. Factors to be considered include architectural styles, harmonious use of materials, varied housing types, parking areas broken by landscape features, circulation pattern, variation in building set backs and building groups (clusters), pedestrian way treatments, landscaping and recreational areas, single-loaded streets, boulevards, roundabouts, village greens, and harmony with adjacent agricultural or other neighboring open space.
 - b. *Preserving open and natural areas.* A density bonus increase of up to ten percent may be awarded when the provision of open space and the preservation of natural areas make a substantial contribution toward meeting the review criteria and objectives described in this ordinance. Factors to be considered include preservation of open space, preservation of natural assets such as wooded areas, buffer areas for lakes, streams, wetlands and other water courses, lot layout and street design giving a majority of lots frontage and ingress/egress on single-loaded streets.
 - c. *Rounding.* When a bonus percentage increase is awarded, any fraction of a dwelling unit above 25 percent will be rounded to the next whole number.
- G. *Layout of lots and streets.*
 - (1) *Minimum lot areas and widths.* The Zoning Commission (Planning Commission) shall determine the approved areas and widths of lots as proposed by the developer in the preliminary plan prepared in accordance with the requirements described below, and the degree to which the review criteria described below are met.

- (2) *Lot layout.* Residential lots shall be designed around both the primary and secondary conservation areas and may adjoin those areas.
 - a. Dwelling units should generally not be located closer than 100 feet to a primary conservation area or 50 feet to a secondary conservation area.
 - b. The designated footprint may be changed by no more than 50 feet in any direction without requiring any additional review or approval.
- (3) *Street layout.* The open space community shall be served by an interior street system with direct access to an exterior road system. No use within the project shall front or gain direct access from an off site road network. The nearest edge of any entrance or exit drive shall be located no closer than 200 feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line). The street layout should minimize the number of cul-de-sacs. Where required, cul-de-sacs shall be designed to permit access by emergency vehicles and with a central island planted with native trees and shrubs.
- (4) *Accessibility.* All interior streets shall have sufficient widths, gradients and curvatures to provide access for emergency vehicles and moving vans.
- (5) *Paving and width requirements.* The interior street system shall be designed to the county specifications applicable at the time of construction. The county must provide a conditional acceptance of the streets before approval of the site plan will be granted. In the event that the county determines that it will not accept such streets, or at the request of the Zoning Commission (Planning Commission), private roads may be utilized for the interior street system within the open space community development and must be constructed to conform with the requirements of Porter Township Ordinance Number 27, if the following findings are made by the Zoning Commission (Planning Commission):
 - a. A deed restriction is placed on the property site that perpetually vests fee simple of the land area in the parties adjoining the roads.
 - b. A maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, is reviewed and approved by the Zoning Commission (Planning Commission).
- (6) *Parking.* Each dwelling unit shall be provided with parking space adequate for at least four automobiles in addition to any garage space.

H. *Utilities, drainage and screenage.*

- (1) *Utilities.* Public water and sanitary sewer services may be required where facilities are reasonably available and/or where densities require. Regardless, open space community projects shall be designed to provide for future public sanitary sewer facilities. All utilities, including electric power, gas, telephone, and cable television shall be placed underground.

Private sewer facilities may be permitted subject to review and approval of the Van Buren County Health Department.
- (2) *Stormwater management.* Stormwater management systems and drainage facilities shall be designed to minimize potential soil erosion and adverse impact on existing streams, lakes, and wetland, and for the protection of the groundwater.
- (3) *Screening.* Screening may be required along the development perimeters if deemed necessary by the Zoning Commission (Planning Commission) to minimize any adverse effects upon or from adjoining properties that are not part of the open space community development project. Screening shall be accomplished by the siting of land uses, by maximizing the use of existing natural screens, and/or providing new natural screens and/or open space buffers where appropriate.

- I. *Review criteria.* In considering an application for approval of an open space community, the Zoning Commission (Planning Commission) shall make its determination on the basis of the criteria set forth in the preceding sections, as well as the following standards and criteria:
 - (1) The overall design and land uses proposed in connection with the open space community development project shall be consistent with the intent of the open space community concept and the specific design standards set forth herein.
 - (2) The proposed open space community development shall be serviced by the necessary public facilities to assure the public health, safety, and welfare of the users of the open space community and the residents in the surrounding area.
 - (3) The proposed open space community shall be designed to minimize the impact of traffic generated by the development on the surrounding land use and street network.
 - (4) The proposed open space community shall be designed so as to be in character with the surrounding conditions as they relate to the bulk and location of structures, pedestrian and vehicular circulation, landscaping and amenities.
 - (5) The proposed open space community shall be designed and constructed so as to preserve the integrity of existing on- and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, waterbodies, and groundwater resources and minimize conflicts between residential and agricultural uses.
 - (6) The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact and access.
 - (7) The proposed open space community shall comply with all applicable federal, state and local regulations.
 - (8) The proposed open space community shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public road rights-of-way.
 - (9) The proposed open space community shall provide open space that is reasonably contiguous and configured.
- J. *Application and approval process procedures.*
 - (1) *Application requirements.* Procedures for the application processing, review and approval for an open space community development are generally the same as for the site plan review as outlined in special use and site plan requirements of township ordinances.
 - (2) *Effect of approval.* After a site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the Zoning Commission (Planning Commission) after proceedings conducted as in the original application.
 - (3) *Conformity to approved plan.* Property that is the subject of approval for an open space community development must be developed in strict compliance with the approved site plan and any amendments thereto which have received Zoning Commission (Planning Commission) approval. If construction and development does not conform with the same, the approvals thereof shall forthwith be revoked by the township by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation(s).
 - (4) *Amendment to approved plan.* A proposed amendment or modification to a previously approved site plan shall be submitted to the Zoning Commission (Planning Commission) for review in the same manner as the original application was submitted and reviewed.
 - (5) *Project phasing.* When the 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 in the surrounding area. Each phase of the project shall be commenced within 12 months of the scheduled set forth on the approved site plan. If the construction of any phase is not commenced within the approved time period, plan approval shall become null and void.

- (6) *Performance bond.* The Zoning Commission (Planning Commission) may require that a performance bond or irrevocable letter of credit be deposited with the township to insure completion of the open space community in accordance with the approved plans.
- (7) *Recording of action.* No building permit shall be issued for the development and no construction activity commenced within the open space community until an affidavit containing a full legal description of the open space community, specifying the date of the final Zoning Commission (Planning Commission) approval, and declaring that all improvements will be carried out in accordance with the approved open space community site plan, unless an amendment is approved by the Zoning Commission (Planning Commission), is recorded with the Register of Deeds for Van Buren County. In addition, all required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be duly filed with the township and shall have been recorded with the Register of Deeds for Van Buren County.
- (8) *Initiation of construction.* If construction has not commenced within 12 months of final approval, all township approvals become null and void. The applicant may apply in writing to the Zoning Commission (Planning Commission) for an extension, not to exceed 12 months. A maximum of two extensions may be allowed.

K. *Application guidelines.*

- (1) *Approval process.* The following approval process shall apply to an open space community application:
 - a. *Optional preapplication review(s).* Informal preapplication review(s) is encouraged and may be scheduled with the Zoning Commission (Planning Commission) at which time the project concept may be reviewed by the applicant, township staff and township consultants.
 - b. *Preliminary plan review.* An open space community shall undergo a mandatory preliminary plan review by the Zoning Commission (Planning Commission). The review is intended to provide an indication of the issues and concerns that must be resolved prior to review of the site plan by the Zoning Commission (Planning Commission). Preliminary plan approval shall not constitute an approval of a detailed site plan but shall be deemed an expression of approval of the layout as a guide to the preparation of the site plan. A request for modification to the approved preliminary plan shall be submitted to the Zoning Commission (Planning Commission) for review in the same manner as the original preliminary plan was submitted and reviewed.
 - c. *Site plan review.* Following preliminary plan review, an open space community shall undergo a final review by the Zoning Commission (Planning Commission). The detailed site plan shall conform to the approved preliminary plan and incorporate any revisions or recommendations made by the Zoning Commission (Planning Commission) at the preliminary plan review. If a detailed site plan is not submitted for review within six months of preliminary plan approval, the Zoning Commission (Planning Commission) may require a resubmission of the preliminary plan for further review and possible revision. Site plan review shall be subject to all appropriate sections of the zoning ordinance. The Zoning Commission (Planning Commission) shall hold a public hearing on an open space community application.
- (2) *Optional preapplication review(s).* The applicant may present the following information on the proposed open space community for a preapplication review with the township Zoning Commission (Planning Commission) and applicable township consultants:
 - a. An accurate legal description of the development site and zoned land use;
 - b. The names and addresses of all current owners of the development site;

- c. The names and addresses of the developer and plan for unified control;
 - d. The total acreage (gross parcel area);
 - e. The number of acres ineligible for density computation (primary conservation area);
 - f. A yield plan showing the primary conservation area(s), adjusted parcel area, and conventional layout for density determination;
 - g. The number of acres to be preserved as open space (primary and secondary conservation areas);
 - h. Sketch plan of the proposed layout of lots and streets;
 - i. Plans for utilities, drainage and screening;
 - j. Plan for guarantee of open space; and
 - k. Basis for a request, if any, for an incentive bonus.
- (3) *Preliminary plan review requirements.* Engineering details of preliminary plans are not required to be developed beyond a level of detail required to determine the feasibility of the proposed layout. The preliminary plan shall be a colored rendering of the site, drawn to a scale of one to 40 feet and showing a north arrow, and shall provide the following information:
- a. The name, address and telephone number of:
 1. All persons with an ownership interest in the land on which the open space community will be located together with a description of the nature of each entity's interest.
 2. All engineers, attorneys, architects or registered land surveyors participating in design and development of the open space community.
 3. The developer or proprietor of the open space community.
 4. Any person(s) authorized to represent the owner in the review process.
 - b. An accurate legal description of the open space community, including tax identification numbers.
 - c. Boundaries and acreage of the open space community, including the gross parcel area and primary and secondary conservation areas;
 - d. The proposed streets, driveways, loading spaces and inside radius of all curves; widths of streets and driveways and the total number, location and layout of parking spaces.
 - e. The lot layout with lot sizes and proposed residential dwellings. The site plan shall clearly indicate the number of buildings, building envelopes and orientation, and finished ground and basement elevations.
 - f. Natural features such as woodlots, trees of more than one foot in diameter, streams, ponds, lakes and environmental features, and manmade features such as roads and structures, together with an indication of which features are to be retained and which are to be removed or altered.
 - g. Proposed landscaping, including greenbelts, berms and/or screening.
 - h. Proposed signage and exterior lighting.
 - i. The size and location of all existing and proposed public and private utilities, including stormwater drainage, sewer treatment systems and water supply.
 - j. The location of existing streets adjacent to the open space community with an indication of how they will connect with the interior street system for the proposed development.

- k. Existing and proposed topography, drainage systems and structures, with contour intervals of not more than two feet; provided that this may be waived at the discretion of the zoning administrator.
 - l. The following additional information shall be included as an integral part of the site plan, but may be either presented on the site plan or attached:
 - 1. A general description of existing soil conditions per the Van Buren County Soil Survey Map.
 - 2. A general location map showing the existing zoning designations, uses and ownerships of the open space community and all land within one-quarter mile.
 - 3. The topography of the site and its relationship to adjoining land;
 - 4. Maps and written description of the significant natural, cultural and geographic features of and near the site. The analysis must include:
 - i. Existing vegetation;
 - ii. Topography;
 - iii. Water bodies;
 - iv. Streets, rights-of-way, easements;
 - v. Existing structures.
 - 5. A detailed description of the basis for the determination of the primary conservation area boundaries.
 - 6. A yield plan showing the primary conservation area(s), adjusted parcel area (with acreage), and conventional layout for density determination.
 - 7. A description of any incentive bonus requested and the basis for the request.
 - 8. A specific time schedule of the intended development and construction details, including proposed phasing or timing of all improvements.
 - 9. An analysis of vehicular traffic impact of the proposed open space community on the existing road network.
 - 10. Documents or plan for showing unified control.
 - 11. Documents or plan for showing guarantee of open space, including allowable uses of dedicated open space, a requirement that the dedicated open space be maintained by parties having ownership interest, a schedule of maintenance of the dedicated open space, and a provision for the maintenance to be undertaken by the township in the event that it is determined by the township to be a public nuisance, with the assessment of the costs upon the property owners.
 - 12. A narrative describing how the open space community is supported by the township's master land use plan, the capacity and availability of necessary public facilities to the development, and the impact the development will have on adjoining properties.
 - 13. An Open Space Community Development Site Plan Checklist prepared by the township (as amended from time to time) shall be used as a tool by the applicant and township board.
- (4) *Site plan review requirements.* The following information shall be included on, or attached to, all plans:
- a. An update of the approved preliminary plan.
 - b. A guarantee of open space, including easements, deed restrictions, and other documents pertaining to the open space system and park/recreation areas;

- c. Documents showing unified control.
- d. Conditional acceptance of streets by the county or other assurances required by the Zoning Commission (Planning Commission) with regard to interior streets.
- e. If condominium ownership is proposed, all documentation required by the condominium regulations of the township and state.
- f. Engineering plans presented in sufficient detail to indicate compliance with the engineering standards adopted by the township, including the cross sections of proposed streets, drive aisles, paved areas, and on-site drainage, including retention and/or detention areas.

(Amend. eff. May 9, 2012)

Sec. 4.17. - Communication towers.

- A. *Purpose:* It is the purpose of this section to provide regulations controlling the placement, design, modification and construction of communication towers including their accessory uses.
- B. *Definition:* "Communication tower" - A radio, cellular phone or television relay structure of skeleton frame work, or monopole attached directly to the ground or other structure utilized for the transmission or reception of radio, cellular telephone, television, microwave or any other form of telecommunication signals. Not included in this definition are: citizen band radio facilities, ham and amateur radio facilities, residential television reception antenna/satellite dishes.
- C. *Regulations:* The following regulations shall govern the placement, design, modification and construction of commercial communication towers including their accessory uses.

Special Use Permit. Communication towers are permitted with the approval of a Special Use Permit by the Planning Commission. Most times being in other than residential or recreation zoned areas. Communication facilities which are proposed to attach to existing, pre-approved communication towers shall be approved by the Building Inspector if they meet all the conditions established by the original Special Use Permit.

Site Plan Standards to be reviewed by Planning Commission:

1. The tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Building Inspector that the structural integrity of the tower will withstand high winds, and the likelihood of tower failure is minimal. The applicant shall incur all cost associated with such review.
2. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer than thirty (30) feet from the tower. Nothing shall prevent the applicant from applying to the Board of Appeals for a setback variance.
3. Accessory structures shall not exceed six hundred (600) square feet of gross building area.
4. All bufferyard requirements within zoning ordinance shall be met.
5. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
6. The plans for the tower shall be certified by a registered structural engineer.
7. All towers must meet the standards of the Federal Communications Commission and the Federal Aviation Administration.
8. Communication towers in excess of 100 feet in height above grade level shall be prohibited within a two-mile radius of a public airport or ½-mile radius of a helipad or private landing strip.
9. In no case shall a tower or supporting structure be located within thirty (30) feet of a property line.

10. All signals and remote control conductors of low energy extending substantially horizontally above ground between a tower or antenna and a structure or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
11. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and/or leased by the applicant.
12. Towers shall be located so that they do not interfere with reception in nearby residential areas.
13. The base of the tower shall occupy no more than five hundred (500) square feet.
14. Minimum spacing between tower locations shall be two (2) miles in order to prevent a concentration of towers in one area.
15. Maximum height of a communication tower shall be two hundred (200) feet.
16. Towers shall not be artificially lighted unless required by Federal Aviation Administration.
17. There shall be no employees located on the site on a permanent basis to service or maintain the antenna.
18. All parking and drive areas must be of gravel or better construction.
19. The tower shall be removed by the property owner or lessee within three (3) months of being abandoned.
20. When any communications tower is determined to be unsafe or is unlawfully erected or maintained and is found to be in violation of this amendment, the use of the tower shall be discontinued until all violations are corrected or it shall be removed. The property owner or lessee shall be responsible for any cost incurred.
21. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes.
22. Towers in existence at the time of passage of this ordinance amendment [June 9, 1999] need not comply with the provisions herein unless they shall be reconstructed or replaced.
23. At the discretion of the Township, all towers may be required to have a 5-foot fence surrounding the tower.

REMOVAL AGREEMENT

This Removal Agreement ("Agreement") is made this _____ day of _____/_____/_____, 20_____, between _____ ("_____") and Porter Township, Van Buren County, Michigan, a Michigan municipal corporation (the "Municipality").

WHEREAS, _____ desires to construct and operate a wireless communications facility, including, but not limited to, a wireless communication tower for the primary purpose of subleasing space to wireless communications providers (the "Site Compound"), and has entered into a ground lease agreement dated _____/_____/_____, 20_____ with _____ ("Lease") for the purpose of installing the Site Compound in the Township of Porter, County of Van Buren, State of Michigan, including rights of ingress and egress for access and utilities. The land on which the Site Compound will be located is more particularly described in Exhibit A, which is attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the MUNICIPALITY has requested, as a condition of a Special Land Use permit the removal of the Site Compound and tower, at no expense to the MUNICIPALITY, at the end of the term of the Lease, including any renewal terms; and

WHEREAS, _____ agrees to the condition of removal, and provides this Agreement to establish the promise to remove the Site Compound and tower in accordance with the Municipality's requirements.

NOW, THEREFORE, _____ agrees to remove all equipment, above and below ground, and all appurtenances at the Site Compound and tower and to restore the Property to allow future unrestricted use in accordance with all laws, regulations, etc. The removal of equipment and restoration of the Site Compound and tower shall be completed within One Hundred Eighty (180) days after the expiration of the term of the Lease, including any renewal terms, or upon non-use of the tower, whichever comes first. If _____ fails to restore the Site Compound, _____ or its successor, shall be responsible for the payment of any reasonable cost incurred by the MUNICIPALITY in securing the restoration of the Site Compound (the "Costs for Removal"); provided, however, that before the MUNICIPALITY restores the Site Compound the MUNICIPALITY shall provide _____, and/or its successor, ninety (90) days prior written notice of _____, and/or its successor's, default hereunder.

_____ further agrees to deposit with the MUNICIPALITY a bond in the amount of Ten Thousand and 00/100 (\$10,000), for the sole purpose of assuring payment of such Costs for Removal and Restoration, in the event of a default of this obligation by _____. In the event _____, its successor, heirs and assigns, fails to effect such payment to the MUNICIPALITY to cover the Costs for Removal, as provided herein, the MUNICIPALITY shall provide _____ written notice of such failure, together with sufficient documentation of the amount that is due (the "Late Notice"). If the MUNICIPALITY has not received payment within thirty (30) days after the date of the Late Notice, the MUNICIPALITY may use the above sum upon written notice to _____. Any excess monies on deposit with the MUNICIPALITY shall promptly be refunded to _____.

This Agreement shall be governed by the laws of the State of Michigan and shall be binding upon _____ successors, heirs, and assigns.

The parties hereto acknowledge that the MUNICIPALITY'S approval of _____ Special Use Permit shall be considered good and adequate consideration for this Agreement, in addition to any and all other valuable consideration.

Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

With a copy to: MUNICIPALITY, Nathan Bitely, Supervisor
Porter Township
P.O. Box 817
Lawton, MI 49065

With a copy to: Harold Schuitmaker
Schuitmaker, Cooper & Schuitmaker, P.C.
P.O. Box 520
181 West Michigan Avenue, Suite 1
Paw Paw, MI 49079-0529

The MUNICIPALITY and _____, and/or its successors, heirs and assigns, may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt.

IN WITNESS WHEREOF _____ and the MUNICIPALITY have executed this agreement the day and year first written above.

Witnesses:

a _____

By: _____

Its: _____

MUNICIPALITY:

Porter Township, Van Buren County,
Michigan, a Michigan municipal corporation

By: _____

Nathan Bitely

Its: Supervisor

(Amend. eff. July 9, 1999; amend. eff. Apr. 10, 2002)

Sec. 4.18. - Signs and outdoor advertising structures.

- A. *Statement of purpose.* The intent of this section is to regulate the type, number, physical dimensions, erection, placement and maintenance of signs in the Township. The purpose of the limitations, regulations, and standards established herein is to:
- Promote the public peace, health, and safety of residents and visitors;
 - Protect the natural beauty and distinctive character of Porter Township;
 - Protect commercial districts from visual chaos and clutter;
 - Provide an environment which fosters growth and development of business, while protecting and promoting the rural and agricultural nature of the Township;
 - Protect property values;
 - Eliminate distractions which are hazardous to motorists and pedestrians;
 - Protect the public's ability to identify establishments and premises;
 - Protect the public's interest in public buildings, streets, roads and highways and open spaces; and
 - Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.
- B. *Scope.* Except as otherwise expressly provided herein, this section shall not relate to building design. Nor shall the section regulate official traffic or government signs; the content of signs; scoreboards at athletic fields; gravestones; barber poles under three feet in height; religious symbols; commemorative plaques; the display of street numbers or names; or any display structure or construction not defined herein as a sign.
- C. *General provisions.* It shall be unlawful for any person to erect, place, or establish a sign in Porter Township except in accordance with the provisions of this section.
- D. *Definitions.* For the purpose of this section the following words or phrases are defined as follows:
- Abandoned sign.* A sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product, or activity, and/or for which no legal owner can be found.
- Advertising display area.* The advertising display surface area (copy area) encompassed within any regular geometric figure which would enclose all or part of the sign. The structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof, shall not be included in the advertising area.
- Animated sign.* A sign which uses movement or change of lighting to depict action or to create a special effect or scene. (Compare with "flashing sign".)

Awning. A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework. (Compare with "marquee".)

Awning/canopy sign. Letters, numerals or other drawings painted on, printed on, or attached flat against the surface of an awning/canopy.

Balloon sign. An air- or gas-filled sign, excluding 17-inch or smaller latex balloons where only one may be tied to an item with a display height not greater than five feet above that to which said balloon is attached which may not include utility or light poles.

Banner sign. A sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind. (Compare with "snipe sign".) Flags that do not contain any advertising copy shall not be considered banner signs for purposes of this section.

Bench sign. A sign located on any part of the surface of a bench or seat visible from an adjacent property or right-of-way.

Billboard. A sign which advertises an establishment, service, merchandise, use, entertainment, activity, product or message which is not conducted, sold, produced, manufactured or furnished upon the lot, building site or parcel where the sign is located.

Changeable copy sign. A sign upon which a display or message, other than display of the current time and/or temperature, can be changed not more than once a day by physical replacement or electronic change of the display or message.

Clearance (of a sign). The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

Commercial center identification sign. A sign identifying or recognizing a commercial center.

Commercial sign. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Construction sign. A sign which displays the name or names of principal contractors, architects and lending institutions and/or others responsible for the construction on the site where the sign is placed.

Copy. The wording on a sign surface in either permanent or removable letter form.

Development/building identification sign. A sign which identifies a development or building by its recognized name, not including a product or service.

Directional sign. A sign providing directions for vehicular or pedestrian circulation into, within or out of a development. Said sign shall not contain advertising display copy other than the names of on-site establishments and only for purposes of indicating direction thereto. Directional signs shall be located on the lot, building site or parcel where the sign(s) is located.

Directory sign. A sign which displays the names and locations of occupants or the use of a building.

Face of sign. The area of a sign on which the copy or display is placed.

Festoons. A string of ribbons, tinsel, flags, pennants or pinwheels.

Flag. Any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

Flashing sign. A sign which contains an intermittent or sequential flashing light source used to attract attention. This does not include changeable copy signs, animated signs, as defined in this Section, or signs which through reflection or other means, create an illusion of flashing of intermittent light. (Compare with "animated sign" and "changeable copy sign".)

Freestanding sign. A sign structurally separated from a building.

Government sign. A public sign erected and maintained by Porter Township, the county, state, or federal government.

Ground-mounted sign. A sign which extends from the ground or that has a support placing the bottom thereof less than two feet from the ground. (Compare with "pole sign".)

Height (of a sign or flag pole). The vertical distance measured from the highest point of the sign or flag pole, including any decorative embellishments, to the grade of the adjacent street or the existing surface grade beneath the sign, whichever ground elevation is lower (less). (Compare with "clearance".)

Illuminated sign. A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Incidental sign. A sign, emblem, or decal informing the public of the goods, facilities, or services available on the premises, whose purpose is secondary to the use of the lot, building site or parcel. No sign with a commercial message legible from a position off the lot, building site or parcel on which the sign is located shall be considered incidental.

Maintenance. The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Mansard. A sloped roof or roof-like facade architecturally comparable to a building wall.

Marquee. A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building. (Compare with "awning".)

Marquee sign. A sign attached to or supported by a marquee structure.

Nameplate. A nonelectric on-premises sign giving only the name, address and/or occupation of an occupant or group of occupants.

Noncommercial sign. A sign not advertising an establishment, product, good or service. (Compare with "political sign".)

Off-premises sign. Another word for a billboard.

On-premises sign. A sign which pertains to the use of the premises on which it is located.

Painted wall sign. A sign which is applied with paint or similar substance on the face of a wall.

Parapet. The extension of a false front or wall above a roofline.

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent sign. A sign which is permanently affixed on or in the ground or to a building and meets the requirements of a structure under the building code.

Pole sign. A sign with all parts of the display sign area at a height of eight feet or more, excluding the necessary supports, uprights or braces. (Compare with "ground-mounted sign".)

Political sign. A sign relating to a candidate for public office or a position on an issue. (Compare with "noncommercial sign".)

Portable sign. A reusable and movable sign not permanently affixed in the ground, or to a structure or building.

Real estate sign. A sign advertising the real estate upon which the sign is located for the purpose of offering the property for sale, lease or rent.

Roof sign. A sign erected or constructed wholly upon or over the roof of a building and supported on the roof structure.

Rotating sign. A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

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

Sign area. The area shall be measured within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces or uprights of the sign which combined areas per side may not exceed 30 percent of the permitted square footage of the sign.

For signs utilizing LED (light-emitting diode), up to 25 percent of the permitted sign area may be used for changeable copy or to electronically display the current time and/or temperature.

Where a sign has two or more faces, the area of all faces shall be included in determining the area of a sign, except that where two faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be deemed to be only the area of one face, or if faces are of different sizes, the area of the larger face.

Pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising copy or colors, patterns, logos that are a trademark or reasonably recognizable identification for the establishment and/or sign owner subject to the above provisions.

Snipe sign. A sign that is attached to a utility pole, tree, fence, or any object located or situated on public or private property. (Compare with "banner sign".) Flags that do not contain any advertising copy placed on light or utility poles shall not be considered snipe signs for purposes of this section.

Special event sign. A banner, portable sign, or balloon sign, not exceeding a height of 20 feet when fully inflated, depicting a special event, such as a grand opening, going-out-of-business sale, semiannual sale at a commercial establishment or a special event at a permitted nonresidential use in the residential zoning districts. Balloon signs shall be securely anchored to and placed directly upon the ground and fully inflated at all times.

Subdivision identification sign. A sign identifying or recognizing a platted subdivision, condominium complex, industrial, commercial, or residential development.

Under-canopy sign. A sign suspended beneath a canopy, ceiling, roof, or marquee.

Vehicle sign. A sign painted on, incorporated in, or attached directly to any mode of transportation, including but not limited to automobiles, trucks, boats, busses, airplanes, and trailers.

Wall sign. A sign including painted, individual letter, and cabinet signs, which are attached parallel to and extending not more than 15 inches from the wall of a building.

Window sign. A sign placed inside or upon a window facing the outside which is intended to be seen from the right-of-way or the outdoors.

E. *Signs prohibited.* The following types of signs are prohibited in all zoning districts:

- (1) Abandoned signs.
- (2) Balloon signs, except as expressly permitted by this section.
- (3) Animated signs.
- (4) Banner signs, except as expressly permitted by this Section.
- (5) Bench signs.
- (6) Festoons.
- (7) Pennants.
- (8) Portable signs, except as expressly permitted by this section.
- (9) Rotating signs.
- (10) Signs imitating or resembling official traffic or government signs or signals.
- (11) Snipe signs.

- (12) Vehicle signs not used during the normal course of business which are parked or located for the primary purpose of displaying the advertising copy.
- (13) Roof signs.
- (14) Special event signs, except as expressly permitted by this section.

F. *Signs permitted in all zoning districts.* The following signs are allowed in all zones:

- (1) Incidental signs.
- (2) One construction sign for each public street frontage of a construction project, not to exceed 32 square feet in sign area. Such signs may be erected 30 days prior to beginning of construction and shall be removed 30 days following issuance of the final certificate of occupancy for the premises.
- (3) One nonilluminated real estate sign per lot, building site or parcel, not to exceed six square feet in sign area. On a lot, building site or parcel which is not agriculturally or residentially zoned, a real estate sign may not exceed a sign area of 16 square feet.

In addition, one directional sign located in the general vicinity of the lot, building site or parcel; directing the public to the lot, building site, or parcel for sale as long as permission from the land owner has been given. In no event shall either sign be located on the road, highway or street right-of way.

- (4) Noncommercial signs not to exceed 16 square feet in sign area. Noncommercial signs may be placed only on private property and only with the permission of the property owner.
- (5) Political signs may be placed only on private property and only with the permission of the property owner. Signs relating to an election or referendum shall be removed five days following such election or referendum.
- (6) Banners, seasonal and decorative in nature and theme that do not advertise a product, service or business and which pertain to holidays and/or community-wide or governmental events.

G. *Agricultural and residential land uses.* In all agricultural and residential uses, the requirements of schedule A shall govern the use, area, type, height and number [of signs], in addition to the requirements elsewhere in this ordinance.

SCHEDULE A—AGRICULTURE AND RESIDENTIAL LAND USES

Use	Sign Type	Maximum Display Area	Maximum Height	Sign Purpose	Maximum No. of Signs
Education, religious, cemeteries, public buildings, public parks and other nonresidential uses in a agricultural or residential district (other than offices)	a) Ground sign	30 s.f.	5 feet	Identification	1 per principal use
	OR				
	Wall sign	30 s.f.	20 feet		
	b) Directional sign	2 s.f.	3 feet	Directional	1 per curb cut

Residential subdivisions, including mobile home parks and apartments	a) Ground sign	30 s.f. (See footnote 1)	5 feet	Identification and/or informational	1 per street entrance, not to exceed one per 2,600 lineal feet of continuous road frontage;
	b) Directional	2 s.f.	3 feet	Directional	2 per development
Home occupations, day care and foster care uses in a residence		None			None
Off-premises signs prohibited		None			None
Where allowed, sign face may be used in conjunction with a wall, fence or other architectural entrance feature.					

- H. *Agricultural and residential uses; additional permitted items.* All Agricultural and Residential uses shall also be permitted the following:
- (1) Flags.
 - (2) One special event sign, not to exceed 32 square feet, shall be permitted for up to seven calendar days per year per lot, building site or parcel. A sign permit must be obtained prior to displaying a special event sign.
- I. *Commercial and office land uses.* In all commercial and office uses the requirements of Schedule B shall govern sign use, area, type, height and numbers in addition to requirements elsewhere in this ordinance.

SCHEDULE B—COMMERCIAL AND OFFICE LAND USES

Use	Sign Type	Maximum Display Area	Maximum Height	Sign Purpose	Maximum No. of Signs
Individual commercial establishments, including hotels without restaurants (not located within a	a) Wall sign	1 s.f. for each foot in length or height (whichever is greater) of the wall to which it	25 feet	business or identification	4 per building (see footnote 3)

multiestablishment center)		is affixed (see footnote 1)			
	b) Pole sign	60 s.f.	20 feet		1 pole or ground mounted sign (see footnote 2)
	OR				
	Ground sign	80 s.f.	10 feet		
	c) Window signs and displays	25% of total window surface for temporary and 15% for permanent			
Multitenant commercial and/or professional center including hotels with restaurants.	a) Pole sign,	80 s.f.	20 feet	Commercial center and/or individual tenant identification	1 pole or 1 ground sign (see footnote 2)
	OR				
	Ground sign	80 s.f.	10 feet		
	b) Wall sign,	80 s.f.	25 feet	Identification or commercial center	1 per building wall not to exceed 4 per building
	OR				
	Canopy/awning	32 s.f.	12 feet		

Commercial tenants within a multitenant development (also see below)	a) Wall sign	1 s.f. per lineal foot of tenant space width not to exceed a sign length of more than 2/3 the subject tenant space width.	25 feet	Business or identification	1 per exterior wall of the tenant premises, maximum of 2 (must be located upon premises of tenant).
	b) Nameplate	6 s.f.	Underside of building overhang	Identification	1 per tenant
	c) Window signs and displays	25% of total window surface for temporary and 15% for permanent			
	Individual pole and ground-mounted signs prohibited.				
Auto service stations	a) Pole sign	60 s.f.	20 feet	Identification	1 pole or 1 ground sign (see footnote 2)
	OR				
	Ground sign	80 s.f.	10 feet		
	b) Wall sign	1 s.f. for each foot in length or height (whichever is greater) of the wall to which it	25 feet	Business or identification	4 per building (see footnote 3)

		is affixed (see footnote 1)			
	c) Window signs and displays	25% of total window surface for temporary and 15% for permanent			
Automobile sales	a) Pole sign	60 s.f.	20 feet	Identification	1 pole or 1 ground sign for new car dealership, and 1 pole or 1 ground sign for used car sales
	OR				
	Ground sign	80 s.f.	10 feet		
	b) Wall sign	1 s.f. for each foot in length or height (whichever is greater) of the wall to which it is affixed (see footnote 1)	25 feet	Identification	4 per building (see footnote 3)
	c) Window signs and displays	25% of total window surface for temporary and 15% for permanent			
	a) Wall sign	25 s.f.	20 feet	Identification for offices	1 per tenant

Buildings within an office complex (as defined below)				within building	
	OR				
	Wall sign	50 s.f.	20 feet	Identification	1 per building
	b) Ground sign	40 s.f.	5 feet		1 per building at site of building
	Pole signs prohibited				
Buildings containing one or more offices which are under separate business management and not located within an office complex (as defined below)	a) Wall sign	25 s.f.	20 feet	Identification for individual offices within building	1 per tenant
	OR				
	Wall sign	50 s.f.	20 feet		1 per building
	b) Ground sign	60 s.f.	8 feet	Identification	1 per building
	Pole signs prohibited				
Office complex (lot, parcel or building sites containing 2 or more office buildings)	Ground sign	60 s.f.	8 feet	Identification of complex and/or individual buildings therein	1 sign per street entrance not to exceed more than one (1) per 2,600 lineal feet of continuous road frontage along the same public street.

Off-premises signs prohibited, including billboard signs		None			None
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1. Wall length shall be measured in a straight line from the two farthest points on the subject side of the building regardless of any protrusions between said points which shall not be considered a separate wall(s).
 2. Lots, parcels, and building sites with frontage on more than one street may have one sign on each street frontage with one sign permitted a maximum sign area of 60 square feet and any additional signs limited to 30 square feet each.
 3. More than one wall sign may be placed upon the same wall provided the combined square footage does not exceed the maximum display area permitted and/or the maximum number allowed.
- J. *Commercial and office uses; additional permitted items.* All Commercial and Office uses shall also be permitted the following:
- (1) **Flags.** A lot, building site or parcel shall be limited to three flags. For lots, building sites and parcels with public street frontage in excess of 200 feet, three additional flags are permitted for every additional 200 feet of continuous public street frontage. Flag pole height may not exceed 60 feet. Maximum flag size shall be 15 feet x 25 feet.
 - (2) One directory wall sign per building, not to exceed 20 square feet in total sign area.
 - (3) One special event sign, not to exceed 32 square feet except as expressly permitted herein, shall be permitted for up to 14 calendar days per year per lot, building site or parcel. A sign permit must be obtained prior to displaying a special event sign.
 - (4) Directional signs up to two square feet in area and four feet in height. Each lot, building site, parcel, commercial center, or development shall not have more than one directional sign per street entrance.
- K. *Industrial land uses.* In all industrial uses the requirements of schedule C shall govern sign use, area, type, height and numbers in addition to requirements elsewhere in this ordinance.

SCHEDULE C—INDUSTRIAL LAND USES

Use	Sign Type	Maximum Display Area	Maximum Height	Sign Purpose	Maximum No. of Signs
Individual industrial buildings outside an industrial park or industrial-office development (as described below)	a) Wall sign	25 s.f.	20 feet	Individual tenant identification	1 per tenant space
	OR				OR
	Wall sign	50 s.f.	20 feet	Building identification	1 per building

	b) Ground sign	60 s.f.	8 feet	identification of building and/or individual tenants	1 per building
Individual buildings within an industrial park or industrial-office development (as described below)	a) Wall sign	25 s.f.	20 feet	Individual tenant identification	1 per tenant space
	OR				
	Wall sign	50 s.f.	20 feet	Building identification	1 per building
	b) Ground sign	40 s.f.	5 feet	Building or tenant identification	1 per building
Industrial parks and industrial-office developments	Ground sign	60 s.f.	8 feet	Identification of industrial park	1 sign per street entrance not to exceed more than one (1) per 2,600 lineal feet of continuous road frontage along the same public street.

L. *Industrial uses; additional permitted items.* All industrial uses shall also be permitted the following:

- (a) **Flags.** A lot, building site or parcel shall be limited to three flags. For lots, building sites and parcels with public street frontage in excess of 200 feet, three additional flags are permitted for every additional 200 feet of continuous public street frontage. Flag pole height may not exceed 60 feet. Maximum flag size shall be 15 feet x 25 feet.
- (b) One directory wall sign per building, not to exceed 20 square feet in total sign area.
- (c) One special event sign, not to exceed 32 square feet, except as expressly permitted herein, shall be permitted for up to seven calendar days per year per lot, building site or parcel. A Sign Permit must be obtained prior to displaying a special event sign.
- (d) Directional signs up to two square feet in area and a height of four feet. Each lot, building site, parcel, or development shall not have more than one directional sign per street entrance.

M. *Permits required and conditions.* Unless otherwise provided by this section, all signs shall require permits and payment of fees. No sign shall be installed or utilized until and unless a permit has been issued by the township. No permit is required for the maintenance of a sign.

A permit issued pursuant to this section becomes null and void if work is not commenced within 180 days of issuance. If work authorized by the permit is suspended or abandoned for more than 180 days, the permit must be renewed with an additional payment of one-half the original fee.

N. *Signs not requiring permits.* The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this section:

- (1) Construction signs of six square feet or less.
- (2) On-premises directional signs of two square feet or less.
- (3) Seasonal decorations.
- (4) Noncommercial signs, including political signs.
- (5) Government signs or notices, or any sign relating to an emergency.
- (6) Real estate signs of six square feet or less.
- (7) Incidental signs, provided such signs do not occupy more than six (6) square feet of advertising display area.
- (8) Flags.

O. *Maintenance.* All signs, flags, and flag poles shall be properly maintained. Exposed surfaces shall be clean and painted, if paint is required. Defective or damaged parts shall be removed or replaced. Signs not properly maintained shall be considered blight and dealt with as such.

P. *Lighting.* Unless otherwise specified by this section, all signs may be illuminated.

- (1) No sign regulated by this Section may utilize:
 - a. An exposed incandescent lamp * with an external reflector and without a screen or comparable diffusion device.
 - b. Any exposed incandescent lamp * in excess of 160 watts unless a screen or shield is installed so that no light rays are emitted by the installed fixture beyond the advertising display area.
 - c. Any revolving beacon light.
 - d. Lights that could be confused with or construed as traffic control devices.
 - e. Direct or reflected light that could create a traffic hazard to operators of motor vehicles.

(* For the purpose of this section, quartz lamps shall not be considered an incandescent light source.)

- (2) Metal halide lighting, fluorescent lighting and quartz lighting may be used for outdoor advertising signs but shall be installed in enclosed luminaries.
- (3) Glass tubes filled with neon, argon or krypton may be used provided they do not flash intermittently or create a visual effect of movement.
- (4) Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure whenever practical or mounted so that no light rays are emitted by the installed fixture at angles above the sign's highest horizontal plane or in any event beyond the advertising display area.
- (5) The operating of lighting fixtures on or in signs, with the exception of time and temperature displays, from midnight to sunrise is prohibited when the lot, building site or parcel upon which it is located abuts a residential zoning district, unless the premises is open for business.
- (6) No sign may be illuminated by flashing, rotating, oscillating or intermittent lighting.
- (7) Signs with an electronically changeable display shall not scroll, flash or change message more than once in a 24-hour period.

- (8) Signs electronically displaying the time and temperature may only alternate between the current time and temperature and not more than once every four seconds.
- (9) Signs utilizing LED displays may not be so bright as to be objectionable or inappropriate for the surroundings.

Q. *Required sign setbacks for all zoning districts.* Required sign setbacks for all signs and structures supporting said sign shall be as follows:

- (1) No sign shall be placed in a location where it causes a hazard to vehicular or pedestrian traffic by depriving the driver or pedestrian of a clear and unobstructed view of approaching, intersecting or merging traffic. No sign may be located within the public right-of-way.
- (2) Development/building identification signs and subdivision identification signs may be placed in boulevard median strips if approved by the Van Buren County Road Commission and/or the township as part of an approved site plan.
- (3) All signs shall be set back a minimum of ten feet from any public right-of-way line and ten feet or the height of the sign, whichever is greater, from all other property lines, except as follows.
 - a. Directional signs may be located adjacent to a lot line.
 - b. Subdivision identification signs shall be located a minimum of 25 feet from the pavement of the adjacent roadway(s) and in any event, no closer than five feet to any lot line(s).
 - c. Subdivision Identification signs, in agricultural and residential zoning districts, may be located at the front property line, outside the right-of-way and in any event, no closer than five feet to any other property line(s).

R. *Sign height and overhang.*

- (1) Wall sign height shall be measured from the first-floor elevation of the building.
- (2) A wall sign shall not extend beyond the window sills of the floor above or the top of the wall to which it is attached.
- (3) A wall sign shall not project beyond the ends of the wall to which it is attached.
- (4) Walls signs may be affixed flat against the wall of a building or may project therefrom not more than 15 inches. Signs projecting over a walkway or path shall be at least 11 feet above the finished grade.
- (5) A sign shall not project into the public right-of-way of any adjacent street.

S. *Landscaping.* The base treatment for a freestanding sign shall be landscaped and maintained. Such landscaping may be placed in stone, masonry or treated wood bases, containers or in the ground to achieve a pleasant aesthetic arrangement.

T. *Deviations.* In obtaining a permit, the applicant may apply to the township for a deviation from certain requirements of this section. A deviation may be granted by the zoning board of appeals where the literal application of the section would create a hardship for the sign user and the following criteria are met:

- (1) The granting of the requested deviation would not be materially detrimental to the property owners in the vicinity.
- (2) The hardship created by a literal interpretation of the section is due to conditions unique to that lot, building site or parcel and does not apply generally to other properties in the township.
- (3) The granting of the deviation would not be contrary to the general purposes of this section or set an adverse precedent.

In granting a deviation, the zoning board of appeals may attach additional requirements necessary to carry out the spirit and purpose of this Section in the public interest.

U. *Resubmission of application for a deviation request.*

- (1) No application for a deviation from the provisions of this section shall be submitted to the township or be formally considered by the township where such application has been previously denied or turned down by the township unless the township determines that either one year has passed since the prior application was denied or the new application or project is substantially changed from the prior one. In determining whether substantial changes have occurred, the Zoning board of appeals shall consider:
 - a. Whether the application has been substantially modified from the earlier one;
 - b. Whether external conditions or circumstances have changed significantly so as to warrant a reconsideration of the application;
 - c. Whether new and material evidence has been discovered which would justify a reconsideration of the application or project and the failure to present such evidence at the first consideration was not the fault of the applicant.

ARTICLE V. - SPECIAL EXEMPTION USE, SITE PLAN AND REZONING APPLICATIONS

Sec. 5.01. - Intent.

[The intent of this article is:]

- (1) To determine whether certain development proposals specified herein meet applicable requirements and are in harmony with the purpose, intent and spirit of this ordinance.
- (2) To assist the township board in reviewing design proposals which foster orderly, efficient, compatible and aesthetic uses of the lands in Porter Township.
- (3) To provide guidance for evaluation of an application for rezoning.

(Amend. eff. May 9, 2012)

Sec. 5.02. - When required.

- A. A single site plan shall be prepared, submitted, reviewed and approved or disapproved in accordance with the provisions of sections 5.03 through 5.05, and specifically in the following instances:
 - (1) With any application for special use permit.
 - (2) With any application for a zoning compliance permit involving commercial or industrial uses.
 - (3) With any division of land that may be subject to the Land Division Act of 1996, as amended.
 - (4) With any development that is reasonably expected to exceed 10,000 square feet of floor area, or may be expected to involve three or more buildings of any size in a period of two years.
 - (5) With an application to rezone property.
 - (6) With any application for multifamily dwelling unit development.
 - (7) With any application for planned unit development.

(Amend. eff. May 9, 2012)

5.03. - Application and approval process procedures.

The following application and approval process procedures shall apply to all special exemption use, site plan, and rezoning applications.

- (1) *Optional pre-application review.* Informal pre-application review is encouraged and may be scheduled with the Planning Commission at which time the project concept may be reviewed by the applicant, township staff and township consultants.
- (2) *Application and site plan review.* Applicant shall submit the applicable application fee, and twelve (12) copies of the application, each including a site plan conforming to the requirements outlined in Section 5.04 and any supporting documentation, to the Planning Commission twenty-eight (28) days prior to the next scheduled Planning Commission meeting. The applicant must show proof that it is the owner of the property subject of the application, or authorization from the subject property land owner to submit the application. Upon receipt of a complete application, a public hearing will be scheduled for the next available regularly scheduled Planning Commission meeting. The Planning Commission will make a recommendation to the township board. The township board will act on the application at its next regularly scheduled meeting.
- (3) *Notification.* Concurrent with the application for rezoning of a property, applicant shall erect a sign visible to the public from the legal address road in accordance with Section 4.18 announcing the proposed zoning reclassification.
- (4) *Effect of approval.* After a site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof following the proceedings conducted as in the original application.
- (5) *Conformity to approved site plan.* Property that is subject to approval of a site plan must be developed in strict conformance with the approved site plan and any amendments what [that] have received approval. If the construction and development does not conform with the same, the approvals thereof shall forthwith be revoked by the township by written notice of such revocation posted upon the premises involved and mailed to the developer and owner at its last known address. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation or for ensuring public health and safety.
- (6) *Amendment to approved site plan.* A proposed amendment or modification to a previously approved site plan shall be submitted for review and approval in the same manner as the original application was submitted and reviewed.
- (7) *Project phasing.* When a 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 and safety and welfare of users of the property and residents of the surrounding area. Each phase of the project shall be commenced within 12 months of the schedule set forth in the approved site plan. If the construction of any phase is not commenced within the approved time period, plan approval shall become null and void.
- (8) *Performance bond.* The township may require that a performance bond or irrevocable letter of credit be deposited with the township to insure completion of the development in accordance with the approved plans.
- (9) *Initiation of construction.* If construction has not commenced within 12 months of the final approval, all township approvals become null and void. The applicant may apply in writing to the township for an extension, not to exceed 12 months. A maximum of two extensions may be allowed.
- (10) *[Application checklists.]* A Site Plan Checklist and a Rezoning Application Checklist prepared by the township (as amended from time to time) shall be used as a tool by the applicant and the township board.

(Amend. of May 9, 2012)

5.04. - Contents of site plan.

The following information shall be included on or attached to all Site Plans:

- (1) Name and address of property owner, including the names and addresses of any officers of a corporation, or partners of a partnership, including documentation of ownership.
- (2) Legal description of the property with tax identification number(s).
- (3) The area of the subject parcel stated in acres or, if less than one acre, in square feet.
- (4) The present zoning classification of the subject parcel.
- (5) A general description of the proposed use.
- (6) A vicinity map showing the location of the site in relation to the surrounding street system and indicating adjacent parcels with their existing use.
- (7) Recent color aerial photograph showing the site and adjoining parcels.
- (8) Documentation of approvals, as applicable, which may include, but may not be limited to the following:
 - a. Van Buren County Road Commission (for property adjacent to county roads).
 - b. Michigan State Highway Department (for property adjacent to state highways).
 - c. Van Buren County Human Services Department (for restaurants, wells and septic tanks).
 - d. Michigan Department of Environmental Quality (for development of a wetland and environmental permits).
 - e. Van Buren County Drain Commission (for development over 1 acre and/or within 500 feet of a lake, stream, or county drain).
- (9) A map prepared to a scale of not less than one inch (1") equals fifty feet (50') with a graph scale, north arrow, and in sufficient detail so that the reviewing body can readily interpret the site plan, and including the following features:
 - a. Name and address of the preparer.
 - b. Date prepared (including revisions).
 - c. Property boundaries.
 - d. Topography, both existing and proposed at five feet contour intervals, and its relationship to adjoining land. (Arrows should indicate direction of drainage.)
 - e. Natural features, such as woodlots, marshlands, streams, ponds, lakes, drain basins, and similar features. Indicate trees that are greater than 2" in diameter and which features are to be retained and which are to be removed or altered.
 - f. Existing man-made features, such as roads and structures.
 - g. Location and address of existing and proposed buildings or structures on the site, indicating the height, size, and construction type of each.
 - h. Building setback of front, side and rear yards for existing and proposed buildings.
 - i. Minimum spacing between existing and proposed buildings on the site.
 - j. First floor elevation of existing and proposed buildings.
 - k. Existing and proposed grade elevation at all property corners, building corners, and street centerlines.
 - l. Percentage of land covered by buildings and percentage covered by pavement.
 - m. Percentage of land reserved for open space.

- n. Dwelling unit density (where pertinent).
- o. Adjacent rights-of-way or easements including the location of existing drives on the frontage opposite the site to be developed or both opposite sides if a corner site.
- p. Other public or private rights-of-way or easements, existing and proposed.
- q. Proposed drive locations, width and approach type.
- r. Existing and proposed driving lanes, and traffic patterns.
- s. Existing and proposed parking and loading areas, including size and number of parking spaces.
- t. Existing and proposed fire lanes and accessibility for emergency and firefighting equipment.
- u. Location of existing and proposed refuse disposal storage area and enclosure details.
- v. Location of existing and proposed pedestrian walks and recreation areas.
- w. The size and location of all existing and proposed public and private utilities, including stormwater drainage, sewer treatment systems and water supply.
- x. Location of existing and proposed fencing, landscaping, screening, or other buffers required. (Landscaping must be indicated on the site plan or on a separate landscaping plan.)
- y. Location, height and direction of on-site illumination. Light fixture details.
- z. Location, size, and height of all existing and proposed signs on the site.
- aa. Location of existing and proposed ground water supply wells, septic systems and other waste water treatment systems.
- ab. Location of interior and exterior areas to be used for the storage, use, loading/unloading, recycling or disposal of hazardous substances.
- ac. Location of any existing or planned underground and above ground storage tanks and hazardous material storage areas.

(Amend. of May 9, 2012)

Sec. 5.05. - Approval standards.

In approving, disapproving and approving with required modifications, the approving board may use the following guidelines:

- A. That there is a proper relationship between the existing street and highways within the vicinity to ensure the safety and convenience of pedestrian and vehicular traffic.
- B. That the proposed buildings and entryways are so situated as to minimize adverse affects on owners and occupants of adjacent properties and the neighborhood in general.
- C. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the development and adjoining properties or where they would assist in preserving the general appearance of the neighborhood, control erosion or reduce water pollution.
- D. That any adverse effects upon adjoining owners and residents shall be minimized by appropriate screening, fencing, landscaping, setbacks and the location of buildings and entryways.
- E. That all provisions of the township zoning ordinance have been complied with unless an appropriate variance has been granted.
- F. That the plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of public lands in accordance

with their character and adaptability; to avoid over-crowding of population; to lessen congestion upon public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe water supply, education, recreation and other public requirements; to use most advantageously land, resources and property; to conserve property values and natural resources; and to give reasonable consideration of the uses of land and its peculiar suitability to the patterns of land, building and population development.

- G. In addition to the review criteria listed above, during review of an application for rezoning of a property, the following criteria will also be considered:
1. Consistency of the proposed use and/or zoning with the goals, policies and Land Use Map of the Porter Township Land Use Plan.
 2. The compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.
 3. The compatibility of all the potential uses allowed in the proposed zoning district with the surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
 4. The capacity of Township infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Township. These utilities and services include, but are not limited to, sanitary and storm sewers, water and electrical service, police, fire and emergency medical service protection, healthcare facilities, schools, parks and recreation facilities, etc.
 5. The capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
 6. The apparent demand for the types of uses permitted in the requested zoning district in the Township, and surrounding area, in relation to the amount of land in the Township, and surrounding area, currently zoned and available to accommodate the demand.
 7. All of the uses permitted in the proposed zoning district shall not cause detrimental environmental impacts, including, but not limited to, excessive stormwater runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
 8. The boundaries of the requested zoning district are sufficient to meet the dimensional regulations for the zoning district listed in the Township's Zoning requirements.
 9. If a rezoning is appropriate, the requested zoning district shall be more appropriate from the Township's perspective than another zoning district.
 10. The ability of the applicant to satisfy any requirement (e.g., site plan, etc.) applicable to the specific use imposed pursuant to zoning and land use regulations.

(Amend. eff. May 9, 2012)

ARTICLE VI. - ZONING ADMINISTRATION AND ORDINANCE ENFORCEMENT

Sec. 6.01. - Zoning administrator/ordinance enforcement officer: designation and enforcement.

- A. *[Administrator designated.]* An administrative official who shall be known as the zoning administrator/ordinance enforcement officer shall be designated by the township board to administer and enforce all zoning and other ordinances of the township. He may be provided with the assistance of such other persons as the township board may direct. He shall have the authority to issue stop work orders and to make requests to the township board for legal/court assistance.

B. *Procedure for enforcement.*

- (1) Identify, observe and describe the land use activity.
- (2) Take photographs, if possible, note time and date taken.
- (3) Determine what sections(s) of the ordinance(s) is (are) being violated.
- (4) Discuss and explain the violation with the party maintaining the land use violation; note time, date, place and discussion.
- (5) If the administrator shall find that any of the provisions of this ordinance are being violated, he shall:
 - a. Notify the violator, by a written 15-day notice of violation, serviced via personal service or by first class mail with postage fully prepaid. The notice of violation shall include the nature of the violation and request for correction action to be taken immediately.
 - b. If after 15 days the violation(s) still exist(s), at the discretion of the zoning administrator/ordinance enforcement officer, an extension to complete the corrective action may be granted. If the violation continues thereafter, the zoning administrator/ordinance enforcement officer shall issue a citation, if appropriate per the ordinance, for the violation(s). The citation shall be filed with the court pursuant to current citation procedure. A copy of the citation, 15-day notice and zoning administrator/ordinance enforcement officer(s) report shall be provided to the township attorney.
 - c. If a citation is not the appropriate action to be taken, the township board may determine:
 1. The additional time, if any to be granted for the party to come into compliance;
 2. What further actions, beyond those terms already specified by the zoning administrator, need to be taken to come into compliance; and
 3. Any fees or penalties (based on the circumstances) to be assessed. In the alternative, the township board may follow through with part 4 below:
 - d. The township board may authorize court enforcement and shall refer the matter to the township attorney will all records in the township file.

Sec. 6.02. - Duties and limitations of the zoning administrator.

- A. The zoning administrator shall have the authority to grant zoning compliance permits, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the zoning administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until he has inspected such plans in detail and has found them in compliance with this ordinance. To this end, the zoning administrator shall require that an application for a zoning compliance permit for construction, moving, alteration or change in the type of use or type of occupancy shall, where required (section 5.02) be accompanied by a site plan.
- B. If the proposed construction, moving or alteration or use of land as set forth in the application, and site plan when required, is in conformity with the provisions of the ordinance the zoning administrator shall issue a zoning compliance permit. If an application for such permit is not approved, the zoning Administrator shall state in writing on an appropriate denial form the cause for such disapproval.
- C. The zoning administrator may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work; and the zoning administrator may on such preliminary submittal take the formal action of tentative denial or tentative approval.
- D. Issuance of a zoning compliance permit shall in no case be construed as waiving any provisions of this ordinance. The zoning administrator is under no circumstances permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in this ordinance to any persons

making application to construct, move or alter, or use buildings, structures or land. The zoning administrator is under no circumstances permitted to make changes to this ordinance or to vary the terms of this ordinance in carrying out his duties.

- E. The zoning administrator shall not refuse to issue a zoning compliance permit when the applicant has complied with all applicable conditions required by this ordinance. Violations of contracts such as covenants or private agreements which may result upon granting of said permit are not cause for refusal to issue a permit.

Sec. 6.03. - Zoning compliance permit.

- A. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, costing more than \$500.00 or exceeding 150 square feet in floor area, until the zoning administrator has issued for such work a zoning compliance permit, including a certification of his opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this ordinance.
- B. It shall be unlawful to change the use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the zoning administrator has issued for such intended use a zoning compliance permit.
- C. In all cases where a building permit is required, application for a zoning compliance permit shall be made coincident with the application for a building permit and in all other cases shall be made not less than ten days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. This application shall be made in writing to the zoning administrator on a form provided for that purpose. A record of all such applications shall be kept on file by the zoning administrator.
- D. Any zoning compliance permit issued under the provisions of this ordinance shall be valid for a period of 90 days following the date of issuance thereof.
- E. When the zoning administrator receives an application for a zoning compliance permit which requires a special use permit, a variance or other approval, he shall inform the applicant.
- F. Before any zoning compliance permit shall be issued, and inspection fee shall be paid in an amount fixed by schedule, established by resolution of the township board.
- G. No building or structure or use for which a zoning compliance permit has been issued shall be used or occupied until after a final inspection has been performed which indicated that all provisions of this ordinance are being complied with and a certificate of compliance has been issued by the zoning administrator. The issuance of a certificate of occupancy shall in no case be construed as waiving any provisions of this ordinance.

6.04. - Reserved.

Editor's note— Sec. 8 of a Resolution passed May 9, 2012, deleted § 6.04, Applications for variance, site plan and special uses, in its entirety.

ARTICLE VII. - APPEALS

Sec. 7.01. - Board of appeals: establishment and procedures.

- A. *Establishment.* There shall be a zoning board of appeals as provided by the Michigan Zoning Enabling Act (2006 PA 110, as it may from time to time hereafter be amended) which shall have such powers and duties as prescribed herein and as otherwise prescribed by law. The zoning board of appeals shall consist of three members. The first member of the zoning board of appeals shall be a member appointed by the township board from the township Zoning Commission (Planning Commission). The

remaining members of the zoning board of appeals shall be selected from electors of the township residing outside of any incorporated cities or villages. The members selected shall be representative of the population distribution and of the various interests present in the Township. One member may be a member of the township board but shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the township board may not serve as a member of the zoning board of appeals. The term of each member shall be for three years, except for members serving because of their membership on the Zoning Commission (Planning Commission) or township board, whose terms shall be limited to the time they are members of those bodies.

- B. *Alternate members.* The township board may appoint not more than two alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called by the chairman of the zoning board of appeals or his/her designee to serve as a member of the zoning board of appeals in absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called by the chairman of the zoning board of appeals or his/her designee to serve as a member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member 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.
- C. *[Board established.]* A zoning board of appeals is hereby established, which shall consist of three members, appointed by the township board. The first member of the board of appeals shall be a member of the township Zoning Commission (Planning Commission). The remaining members of the board of appeals shall be selected from the electors of the township residing outside of the incorporated cities and villages. The members shall be representative of the population distribution and of the various interests present in the township. One member may be a member of the township board. An elected officer of the township shall not serve as chairman of the board of appeals. An employee or contractor of the township board may not serve as a member of the township board of appeals. Members of the board of appeals shall be removable by the township board for nonperformance of duty or misconduct in office upon charges and after a public hearing. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.
- D. *[Terms.]* The term of each member shall be for three years, except that of the members first appointed, two members shall serve for two years and the remaining member for three years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- E. *[Quorum required.]* The township zoning board of appeals shall not conduct business unless a majority of the members of the board are present.
- F. *[Procedures.]* The zoning board of appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and hearings shall be open to the public.
- G. *[Minutes.]* The zoning board of appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed in the office of the township clerk.

Sec. 7.02. - Same—Power and duties.

- A. *Powers of the zoning board of appeals.* The zoning board of appeals shall have the following specified duties and powers:
 - (1) *Review.* The zoning board of appeals shall have authority to hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official

charged with enforcement of any provisions of this ordinance, except for decisions pertaining to special exception uses, planned unit developments, or site plan review.

- (2) *Interpretation.*: The zoning board of appeals shall have the power to interpret the provisions of this ordinance.
- (3) *Variances.* The zoning board of appeals shall have the power to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance where there are practical difficulties in the way of carrying out the strict letter of this ordinance so that the spirit of the ordinance shall be observed, public health and safety secured, and substantial justice done. In making this determination, the standards set forth in the following subsection shall apply.
 - a. *Standards.* Before granting a variance, the zoning board of appeals shall find that all of the following standards are met.
 1. That the variance will not permit the establishment within a zoning district of any use which is not allowed as a permitted or special exception use within the district.
 2. That compliance with the strict letter of the zoning ordinance would unreasonably prevent the owner or occupant of the property from using the property for a permitted purpose, or would render conformity with the Zoning ordinance unnecessarily burdensome.
 3. That a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the surrounding area or, in the alternative, that a lesser relaxation than that applied for would give substantial relief to the owner or occupant of the property involved and be more consistent with justice to other property owners.
 4. That the hardship asserted by the applicant by way of justification for a variance is due to unique circumstances of the property.
 5. That the hardship asserted by way of justification for the variance is not self-created.
 6. That, in granting a variance, the zoning board of appeals is insuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.
 - b. *Conditions to variance.* In granting a variance, the zoning board of appeals may impose such conditions in connection with the granting of a variance that will, in its judgment secure substantially the objectives of the regulations or provisions to which the variance applies and assure satisfaction of the standards set forth above governing the granting of a variance.
 - c. *Approval periods.* The grant of a variance shall be acted upon within one year by commencing construction of the building or structure for which the variance was obtained; otherwise, the variance approval shall be deemed revoked and inoperative. Variances granted which render vacant lots that would otherwise be unbuildable under the terms of this ordinance buildable (e.g., variances from lot area, lot width, road frontage or lot depth-to-width ratio requirements) shall not be subject to the above one-year limitation.

B. *[Authority.]* As the authority of the board of appeals originates from this ordinance and state law,

- (1) In exercising the above powers, the board of appeals so long as its action is in conformity with the terms of this ordinance may reverse or affirm, wholly or partly, or may modify the order, requirement, decisions or determination as ought to be made and to that end shall have the powers of the zoning administrator from whom the appeal is taken.
- (2) The concurring vote of two members of the board of appeals shall be necessary to reverse any order, requirements, decision or determination of the zoning administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or effect any variance in the application of this ordinance.

Sec. 7.03. - Duties of the zoning administrator, board of appeals, and the township board.

- A. It is the intent of this ordinance that all questions under appellate jurisdiction shall be presented to the zoning board of appeals only on appeal from the decision of the zoning administrator. Any request for variances constituting matters under original jurisdiction of the zoning board of appeals via the zoning administrator shall not be construed as an appeal from a decision of the zoning administrator.
- B. It is further the intent of this ordinance that the township board, if it so decides, shall hear and decide questions of interpretation and enforcement that may arise. Special land uses, planned unit developments and special site plan reviews are reserved for review and final decision by the township board.

ARTICLE VIII. - AMENDMENTS

Sec. 8.01. - Amendment by township board; initiation of amendments.

- A. The regulations and provisions stated in the text of this ordinance and the boundaries of the zoning districts shown of the official zoning map may be amended, supplemented or changed only by ordinance of the township board.
- B. Proposals for amendments, supplements or changes may be initiated by the township board on its own motion, by the township Zoning Commission (Planning Commission) or by petition of one or more owners of property to be affected by the proposed amendment.

Sec. 8.02. - Amendment procedures.

- A. *Filing of applications.* All petitions for amendments to this ordinance shall be in writing, signed and filed in triplicate with the township clerk for presentation to the township Zoning Commission (Planning Commission).
- B. *[Contents of applications.]* All petitions for amendments to this ordinance, without limiting the right to file additional material, shall contain the following:
 - (1) The petitioner(s) name, address and interest of every person, firm or corporation having legal or equitable interest in the land.
 - (2) The nature and effect of the proposed amendment.
 - (3) If the proposed amendment would require a rezoning of property, all applicable requirements of article V, Site Plan Requirements, shall be complied with.
 - (4) If the proposed amendment would require a rezoning of property, the names and addresses of the owners, according to the current tax role, of all land within 300 feet of the perimeter of the area to be rezoned by the proposed amendment. Such names and addresses shall be furnished by the appropriate township official.
 - (5) The alleged error in this ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
 - (6) The changed or changing conditions in the area or in the township that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
 - (7) All other circumstances, factors and reasons which the applicant offers in support of this proposed amendment.
- C. *[Referral to Zoning Commission (Planning Commission).]* The township board upon receipt of the petition to amend, after having been examined and approved as to form and content by the clerk, shall refer the same to the township Zoning Commission (Planning Commission) for study and report.

- D. *Public hearing.* Before submitting its recommendations of the petition to amend, the Zoning Commission (Planning Commission) shall hold at least one public hearing, notice of which shall be given according to state law.
- E. *[Notice of public hearing.]* All notices of public hearings required by this ordinance shall state the time, date, place and purpose of such public hearing, and a description of the subject property.
- F. *[Referral to township board.]* The township Zoning Commission (Planning Commission) shall then refer the proposed amendment to the township board along with its written recommendations for approval or disapproval and reasons therefor.
- G. *[Board hearing.]* A public hearing conducted by the township board shall not be necessary unless a request is made in writing by a property owner.
- H. *[Adoption of amendment.]* Thereafter at any regular meeting or at any special meeting called therefor, the township board may adopt and enact the proposed amendment in accordance with NEW ACT.
- I. *[Publication of amendment.]* Upon enactment of the amendment, one notice of the zoning ordinance amendment shall be published within 30 days.
- J. *[Filing of amendment.]* Within seven days after publication, the amendment to the zoning ordinance shall be filed in the official ordinance book of the township with a certification of the township clerk stating the vote on passage and when published and filed. If the amendment requires a change on the official zoning map, such change shall be made on the map in accordance with the provisions of article I of the ordinance within ten days after enactment of the amendment.

Sec. 8.03. - Comprehensive review.

The Zoning Commission (Planning Commission) shall from time to time examine the provisions of this ordinance and the locations of district boundary lines and submit a recommendation for change or amendment.

ARTICLE IX. - GENERAL PROVISIONS

Sec. 9.01. - Provisions of ordinance and minimum requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

Sec. 9.02. - Complaints regarding violations.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person must file a written complaint, and such a complaint shall state fully the causes and basis thereof and shall be filed with the zoning administrator, who shall record properly such complaint, investigate and take action thereon as provided by this ordinance, and make an answer to the complaint.

Sec. 9.03. - Penalties for violations.

Any violation of or any failure to comply with the provisions of this ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 90 days or both. Each day that a violation of this ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this section provided no person shall be imprisoned for a single but continuing violation of this ordinance for a period of longer than 90 days.

Sec. 9.04. - Abatement of nuisance.

In addition to the criminal sanctions herein provided, the Porter Township Board, after resolution duly adopted, shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

Sec. 9.05. - Cost recovery.

In addition to any and all remedies set forth in Porter Township ordinances, the township may request the cost of prosecution, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

Sec. 9.06. - Severability clause.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

Sec. 9.07. - Schedule of fees, charges and expenses.

- A. The township board shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for permits and certificates of occupancy, appeals applications for special uses, variances, rezoning and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the zoning administrator, and may be amended only by the township board.
- B. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE X. - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Sec. 10.01. - Rules applying to text of ordinances.

- A. In case of any difference of meaning or implications between the text of this ordinance and any caption the text shall control.
- B. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- C. Words used in the present tense shall include the future tense; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- D. The word "building" or "structure" includes any part thereof.
- E. The word "person" includes a corporation or partnership as well as an individual.
- F. The word "uses" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- G. Any word or term used in this ordinance and not herein defined shall be defined according to Webster's New World Dictionary of the American Language, Second Edition, Copyright 1970, by the World Publishing Company.
- H. Any consecutive section number omitted from this article at the date of adoption of this ordinance is reserved for future use of amendment of this ordinance.

Sec. 10.02. - A.

Accessory use, structure or building. A use, structure or building which is clearly customarily incidental and appurtenant to the lot's or parcel's principal use, structure or building.

Sec. 10.03. - B.

Building. A structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind. For the purpose of this ordinance, a building includes a mobile home or house trailer when designed or used for human habitation.

Building height. The vertical distance measured from the established grade to the highest point of the roof(s) surface.

Sec. 10.04. - C.

Cottage, seasonal. A dwelling structure, used as or intended for use as temporary lodging for vacation-recreational purposes and not as the permanent year-round place of residence of the occupants. This section is a definition only and does not give rise to a permitted use except as may be permitted in a particular zone.

Sec. 10.05. - D.

Drive-in restaurant or refreshment stand. Any place or premises used for sale, dispensing or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

Dwelling. A building which is occupied wholly as a home, residence or sleeping place by one or more human beings, either permanently or transiently, excluding any garage space. Said dwelling must comply with the following standards:

- A. It complies with the minimum square footage requirements for this ordinance for the zone in which it is located.
- B. It complies in all respects with the township building code, including minimum heights for habitable rooms.
- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the township building code. Any attachments or additions shall also meet all applicable building codes and other state and federal regulations.
- D. It does not have exposed wheels, towing mechanism, undercarriage or chassis.
- E. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- F. The dwelling contains storage area either in a basement located under the dwelling, in an attic area, in closet areas or in a separate fully enclosed structure on the site, said separate structure being of standard construction similar to or of better quality than the principal dwelling, such storage shall be in addition to the space for storage of automobiles and shall be equal to not less than 15 percent of the minimum square footage requirements of this ordinance.
- G. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity and with not less than two exterior doors with one being in the front of the dwelling and the other being in either the rear or side of the dwelling.
- H. The dwelling contains no additions or rooms or other areas which are not constructed with similar materials and which have similar or better quality of workmanship as the original structure, including the above described foundation and permanent attachment to the principal structure.
- I. The dwelling complies with all pertinent building and fire codes including in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- J. The foregoing standards shall not apply to a 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.

Dwelling, multiple-family. A residential building, other than a mobile home, designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single-family. A detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

Dwelling, two-family. A detached residential building, other than a mobile home, containing two dwelling units, designed for occupancy by not more than two families.

Dwelling unit. A room or rooms connected together, constituting a separate, independent housekeeping establishment for one-family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

Sec. 10.06. - E.

Essential services. The phrase "essential services" means the erection, construction, alteration or maintenance by public utilities or principal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewer, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment, and accessories in connection therewith, including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

Sec. 10.07. - F.

Family. For the purposes of this ordinance, a family is:

- A. One or more persons occupying a single-family dwelling unit all related by blood, legal adoption or marriage, and not more than three other persons.
- B. Not more than three unrelated persons. Domestic servants employed on the premises may be housed on the premises without being counted as a family or part of a family.

Floor area. For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of a building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeway, and enclosed and unenclosed porches, elevators or stair bulkheads, common hall areas and accessory structures.

Sec. 10.08. - G.

Gasoline station. Buildings and premises where automobile and other motorized-vehicle fuel, oil, grease, batteries, tires and accessories are sold at retail, and where other incidental services and sales are made.

Grade. Adjacent ground level of the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or when the property line is more than five feet from the building, between the building and a line of five feet from the building.

Sec. 10.09. - H—Reserved.

Sec. 10.10. - I—Reserved.

Sec. 10-11. - J—Reserved.

Sec. 10-12. - K—Reserved.

Sec. 10.13. - L.

Loading space—Off-street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space when computing required off-street parking.

Lot. For the purpose of this ordinance, a lot is a parcel of land of at least sufficient size exclusive of road and street right-of-way and areas under water to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as area herein required. The word lot includes the words plot and parcel. Such lots shall have frontage on a recorded or public or private street. In no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this ordinance.

Lot frontage. The front of a lot generally shall be construed to be the portion nearest the street. For the purposes of determining yard, requirements on corner and through lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under yards in this section; provided however, that frontage for lake and riverfront lots shall be governed by section 4.04.

Lot measurements.

- A. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the area.
- B. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, provided however, that in determining lot frontage on odd shaped lots if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurements of width may be taken at the front of the building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear, the measurement width shall be taken at the rear line of the principal building or at 30 feet behind the front setback line, parallel to the street or street chord.

Lot of record. A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

Sec. 10.14. - M.

Mobile home. A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to required utilities, and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises, and which meets all requirements. A "double-wide" mobile home is one which meets the foregoing description and requirements and which consists of two sections designed to be combined at the site to form one mobile home.

Mobile home park. Any parcel or tract of land licensed and regulated under provisions of the State Trailer Coach Park Act, being Act 243 of the P.A. of 1959 as amended, under the control of any person, upon which three or more occupied mobile homes are harbored on a continual or nonrecreational basis, or which is offered to the public for that purpose, regardless of whether a charge is made thereof, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the harboring or occupancy of mobile homes.

Mobile home subdivision. A "subdivision" as defined by the State Subdivision Act, being Act 288 of the P.A. of 1967, as amended, which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes and which has been established in full compliance with all applicable provisions of the aforementioned act and all other applicable state, county and township regulations.

Modular dwelling. A premanufactured dwelling consisting of an assembly of materials or products intended to comprise all or part of such dwelling and that is assembled at other than its use location except for incorporation with similar units at the use location for the formation of a single structure, and which meets all requirements of "Part 4 Building Code" being a part of the Michigan Construction Code promulgated pursuant to Act 230, P.A. of 1972, as amended, and which is certified and identified in accordance with "Part II", Pre-manufactured Units, also being part of said construction codes.

Sec. 10.15. - N.

Nonconforming lot, structure or use. A lot, structure or use of land which was legally established and in full conformance with all applicable federal, state, county and township acts, ordinances and rules and regulations at the time of establishment previous to the effective date of this ordinance, but which does not conform to the requirements of this ordinance by reason of location within a zoning district established by this ordinance, or by reason of nonconformance with size, bulk height, minimum yards, kind of structure or use, or other applicable requirements of this ordinance.

Sec. 10.16. - O—Reserved.

Sec. 10.17. - P—Reserved.

Sec. 10-18. - Q—Reserved.

Sec. 10.19. - R.

Recreational vehicle. A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers and tent trailers, provided that any such vehicle or unit which is forty (40) feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this ordinance applicable to mobile homes.

Restaurants. A building in which food is prepared and sold for consumption within the building, as opposed to a drive-in restaurant establishment where food may be taken outside of the building for consumption either on or off the premises.

Sec. 10.20. - S.

Special use. A use that would not be appropriate generally, or without restriction, throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted upon issuance of a special use permit by the Township Board in such zoning districts as special uses under specific provision for such special uses as made in this ordinance.

Story, half. An uppermost story lying under a sloping roof. The useable floor area of which does not exceed 75 percent of the floor area of the story immediately below it and not used or designed or arranged or intended to be used in whole or part as an independent housekeeping unit or dwelling.

Street. A thoroughfare for vehicular traffic, including all area within the right-of-way, paved or unpaved open to the public use.

Street line. The right-of-way line of a street or easement for ingress and egress.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, poster panels and similar structures, swimming pools and accessories.

Sec. 10.21. - T.

Travel trailer. A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet and a body length not exceeding 40 feet.

Sec. 10.22. - U—Reserved.

Sec. 10.23. - V.

Variance. A relaxation of the terms of the zoning ordinance where, in the judgment of the board of appeals, such variance will not be contrary to the public health, safety or welfare, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in practical difficulty or undue hardship of use. As used in this ordinance, a variance is authorized only for height, area and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining district.

Sec. 10.24. - W.

Waterfront lot. A lot that abuts a water, stream, pond, river or lake.

Sec. 10.25. - Y.

Yard. A required open space between a lot line and a structure or group of structures, other than a court, unoccupied and unobstructed by any structure or portion of a structure, except as provided within this ordinance; provided, however, that fences, walls, poles, posts and other customary yard accessories, furniture and ornaments may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

Yard, front. A yard extending between side lot lines across the front of a lot adjoining a public street. Front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a lot is not in keeping with the prevailing yard pattern in the immediate area, the zoning administrator may waive the requirement for the setback of a normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots. Every corner lot abutting on two or more streets shall have minimum setbacks from all streets equal to the front setback of the district in which it is located; provided, however, that this does not reduce the build-able width of any lot of record to less than 25 feet. On corner lots where a rear lot line abuts a side lot line on the adjoining lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line a distance equal to the side yard setback required for the district.

Yard, front—Lake frontage. For all lakefront lots, the front yard is that portion of the yard bordering the lake and the measurement should start at the high-water mark.

Yard, rear. The yard extending across the rear of a lot, between side lot lines and behind the building line. The depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the rear lot line.

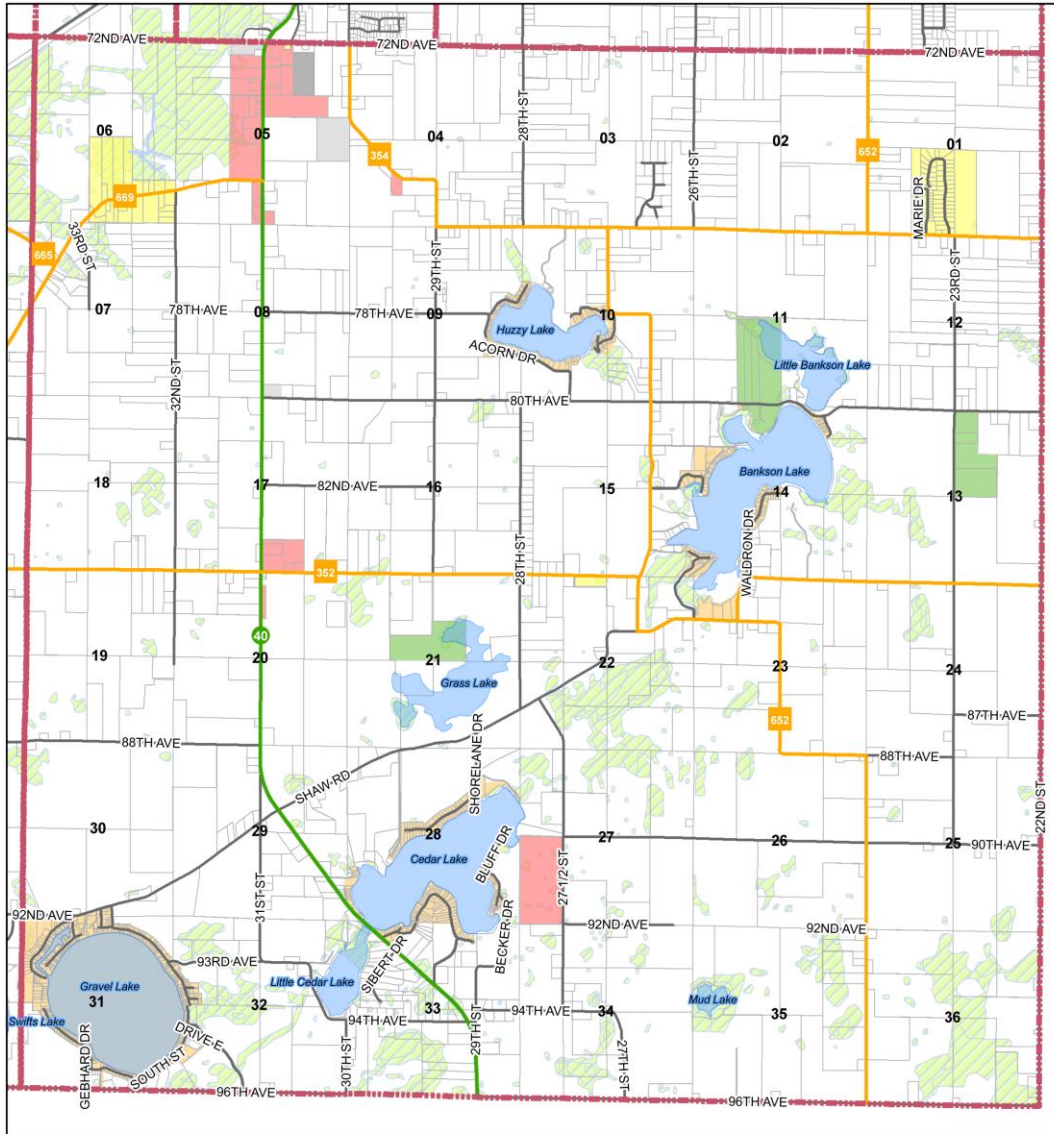
Yard, rear—Waterfront. That portion lying between the foundation and road right-of-way.

Yard, side. A yard extending from the side lot line to the building line.

(Amend. eff. Dec. 21, 2009)


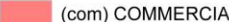






Sec. 10.26. - Z—Reserved.

APPENDIX A - MAP



Van Buren County GIS
2015
(269) 657-8243
www.vbco.org

Porter Township Zoning Map 2015

	(ag) AGRICULTURE		(com) COMMERCIAL
	(rec) RECREATION		(ind) INDUSTRIAL
	LAKE RESIDENTIAL		(i-a) INDUSTRIAL AGRICULTURE
	(res) RESIDENTIAL		ENVIRONMENTAL OVERLAY



last updated 11/15



(Amend. eff. March 9, 2016)

APPENDIX B. - REGULATIONS FOR BUILDABLE LOTS—PORTER TOWNSHIP (Please Reference Porter Township Ordinances for a Full Description of Regulations)

	A Agricultural/ Farmland Preservation	R-1 Residential Low Density ⁷	R-2 Residential Medium Density	R-L Residential Lake	REC Recreation Flood Plain	C Commercial	I Industrial ⁸	EO Environmental Overlay
Minimum Lot Size	2 Acres ¹	1 Acre ²	3/4 Acre Minimum 32,670 Sq.Ft.	1/4 Acre Minimum 10,890 Sq. Ft.	2 Acres	1 Acre	1 Acre	Site Plan required except for single family residences located on a private lot.
Minimum Lot Frontage	220' ² at Road	220' ² at Road	90' at Limited Access Road (with 120' at Building Line)	90' at Limited Access Road (with 120' at Building Line)	220' ² at Road	220' ² at Road	220' ² at Road	
Minimum Front Set Back	50' from foundation to road right-of-way	50' from foundation to road right-of-way	50' from foundation to road right-of-way	50' from foundation to road right-of-way	50' from foundation to road right-of-way	50' from foundation to road right-of-way	50' from foundation to road right-of-way	
Minimum Side Set Back	20' to Foundation ²	20' to Foundation ²	10' to Foundation ²	10' to Foundation ⁶	30' to Foundation	30' to Foundation ⁵	30' to Foundation ⁵	
Minimum Rear Set Back	25' to Foundation	25' to Foundation	25' to Foundation	50' to Foundation	25' to Foundation	25' to Foundation ⁵	25' to Foundation ⁵	
Minimum Dwelling Size	960 sq. ft on the First Floor - 24' Wide Entire Length	960 sq. ft on the First Floor - 24' Wide Entire Length	960 sq. ft on the First Floor - 24' Wide Entire Length	960 sq. ft on the First Floor - 24' Wide Entire Length	Special Use - Site Plan Required	Special Use - Site Plan Required	Special Use - Site Plan Required	
Maximum Impervious Surface Coverage	Maximum 25%	Maximum 25%	Maximum 35%	Maximum 35%	Maximum 10%	Maximum 35% (excluding employee and visitor parking)	Maximum 35% (excluding employee and visitor parking)	Maximum 15%
Maximum Building Height	35' ⁴ (Except Grain Bins, Grain Legs and Silos)	35' ⁴	35' ⁴	35' ⁴	35' ⁴	35' ⁴	35' ⁴	Not Applicable

Footnotes:

sz;8q

¹ After splits allowed per Parent Parcel as shown on the Sliding Scale below, additional buildable lots are allowed only as approved on an Open Space Site Plan. Sliding Scale of buildable lots allowed on a Public Road per Parent Parcel are as follows:

sz;8q

< 20 acres: 1 Split

sz;8q

20—39.9 acres: 2 Splits

sz;8q

40—79.9 acres: 3 Splits

sz;8q

80—159.9 acres: 4 Splits

sz;8q

160—319.9 acres: 5 Splits

sz;8q

> 320 acres: 6 Splits

sz;8q

² Except as approved on a Community Open Space Development Site Plan.

sz;8q

³ 50' from established high water line or average of setback for the three existing houses on each side of subject property, total of six houses.

sz;8q

⁴ Measured from first floor grade to peak of highest roof line.

sz;8q

⁵ Reference Porter Township Ordinance for additional setback limitations.

sz;8q

⁶ Eight (8) feet if existing lot is 40' or less.

sz;8q

⁷ Future use only

sz;8q

⁸ See Zoning Ordinance Text for industrial ag regulations

(Amend. eff. Dec. 21, 2009)

APPENDIX C. - PORTER TOWNSHIP LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to 1996 PA 591, to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

THE TOWNSHIP OF PORTER, VAN BUREN COUNTY, MICHIGAN ORDAINS:

Section 1. - TITLE.

This ordinance shall be known and cited as the Porter Township Land Division Ordinance.

Section 2. - PURPOSE.

The purpose of this ordinance is to carry out the provisions of the State Land Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the township by establishing reasonable standards for prior review and approval of land divisions within the township.

Section 3. - DEFINITIONS.

For purposes of the ordinance, certain terms and words used herein shall have the following meaning:

- A. *Applicant* - a natural person, firm, association, partnership, corporation or combination of any of them that holds an ownership interest in land whether recorded or not.
- B. *Divided or 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 one year, or of building development that results in one or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.
- C. *Exempt split or Exempt 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, that does not result in one or more parcels of less than forty (40) acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- D. *Forty acres or the equivalent* - either forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing less than thirty (30) acres.

Section 4. - PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in the township shall not be divided without the prior review and approval of the township assessor, building inspector and zoning enforcement officer, or other official designated by the governing body, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the township Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the township Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this ordinance.

Section 5. - APPLICATION FOR LAND DIVISION APPROVAL.

An applicant shall file all of the following with the township building inspector and zoning enforcement officer or other official designated by the township for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year or for building development;

- A. A completed application form on such form as may be provided by the township.
- B. Proof of fee ownership of the land proposed to be divided.

- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 PA 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads. In lieu of such survey map, at the applicants(s) option, the applicant may waive the thirty (30) day statutory requirement for a decision on the application until such survey map and legal description are filed with the township, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under Section 5. The township building inspector and zoning enforcement officer or other official designated by the township, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.
- D. Proof that all standards of the State Land Division Act and this ordinance have been met. (See checklist accompanying this ordinance).
- E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be not buildable under Section 8 of this ordinance, proof that all divisions shall result in buildable parcels containing sufficient build-able area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- I. The fee to cover the costs of review of the application and administration of this ordinance and the State Land Division Act may be established by resolution of the township.

Section 6. - PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL.

- A. Upon receipt of a complete land division application package, the township assessor or other designee shall within thirty (30) days:
 - 1. Approve the application.
 - 2. Approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare.
 - 3. Disapprove the land division. The township shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this and all other applicable ordinance requirements and the State Land Division Act, the assessor or other designee shall return the same to the applicant for completion and re-filing in accordance with this ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the assessor or designee may, within twenty eight (28) days of said decision appeal the decision to the township board or such other board or

person designated by the governing body which shall consider and resolve such appeal by a majority vote or said board or by the designee at its next regular meeting or session affording sufficient time for a 20-day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

- C. A decision approving a land division is effective for sixty (60) days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the township assessor or other designated official accomplishing the approved land division or transfer.
- D. The township assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- E. In the absence of applicable zoning or other ordinances providing a different standard, all parcels in agricultural zoned area, created by a land division shall comply with the following minimum standards:
 - 1) A minimum road frontage of 220 feet on a public road or municipally approved private road.
 - 2) A minimum lot (parcel) area of 87,120 square feet.
 - 3) No more than one (1) entrance to a county road for every 220 feet.
- F. In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:
 - 1) Where accessibility is to be provided by a proposed new dedicated public road, proof that the County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.
 - 2) Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:
 - a) Where such private road or easement extends for more than 660 feet from a dedicated public road, or is serving or intended to serve more than one separate parcel, unit or ownership, it shall be not less than sixty six (66) feet in right-of-way width, twenty four (24) feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than fifty (50) feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.
 - b) Where the private road or easement is 660 feet or less in length, and is serving or intended to serve not more than four separate parcels, units or ownerships, it shall not be less than forty (40) feet in right-of-way width, twenty (20) feet in improved roadbed width with at least two (2) feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, have a grade of not more than seven (7) percent, and a cul-de-sac where dead-ended as specified in subparagraph (5)(a) above. If said private road or easement is serving or intended to serve more than four (4) separate parcels, units or ownerships, the right-of-way and development standards set forth in (5)(a) above shall apply.
 - c) If accessibility is by a private road or easement, a document acceptable to the municipality shall be recorded with the County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those

benefitted, and the right of the municipality to assess such costs against the properties benefitted, plus a 25-percent administrative fee and to perform such improvements in the event of a failure of those benefitted to privately perform these duties for the health, safety and general welfare of the area.

- d) Any intersection between private and public roads shall contain a clear vision triangular area of not less than two (2) feet along each right-of-way line as measured from the intersecting right-of-way lines.
- e) No private road or easement shall extend for more than 1,000 feet from a public road.
- f) No private road shall serve more than twenty five (25) separate parcels.

Section 7. - STANDARDS FOR APPROVAL OF LAND DIVISIONS.

A proposed land division shall be approved if the following criteria are met:

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this ordinance.
- C. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four (4) or more parcels.
- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section 8 of this ordinance and parcel added to contiguous parcels that result in all involved parcels complying with said ratio. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the center of the road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The permissible minimum width shall be as defined in the applicable zoning ordinance.

Section 8. - ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS.

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the county Register of Deeds, in a form acceptable to the township, designating the parcel as (not buildable). Any such parcel shall also be designated as not buildable in the township records, and shall not thereafter be the subject of a request to the zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or aboveground structure exceeding four feet in height.
- B. Where, in circumstances not covered by paragraph A. above, the Zoning Board of Appeals has, previous to this ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

- C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this ordinance, any applicable zoning ordinance or the State Land Division Act.

Section 9. - CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement action set forth in Section 10 of this ordinance, and as may otherwise be provided by law.

Section 10. - PROVISIONS OF ORDINANCE AND MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

Section 11. - COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person must file a written complaint, and such a complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator, who shall record properly such complaint, investigate and take action thereon as provided by this ordinance, and make an answer to the complaint.

Section 12. - PENALTIES FOR VIOLATIONS.

Any violation of or any failure to comply with the provisions of this Ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 90 days or both. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section provided no person shall be imprisoned for a single but continuing violation of this Ordinance for a period of longer than 90 days.

Section 13. - ABATEMENT OF NUISANCE.

In addition to the criminal sanctions herein provided, the Porter Township Board, after resolution duly adopted, shall have the authority to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

Section 14. - COST RECOVERY.

In addition to any and all remedies set forth in Porter Township Ordinances, the Township may request the cost of prosecution, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

Section 15. - SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

APPENDIX D. - PORTER TOWNSHIP ORDINANCE TO REGULATE CAMPGROUNDS

An ordinance to regulate campgrounds throughout the township to provide for the licensing thereof and penalties for the violation thereof.

THE TOWNSHIP OF PORTER ORDAINS:

Section 1. - NAME.

This ordinance may be known and referred to as the Porter Township Campgrounds Ordinance.

Section 2. - DEFINITIONS.

The following definitions apply:

- A. *CAMPGROUND*: A parcel or tract of land under the control of a person, organization, group or entity in which sites are offered for the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for more than three recreational units.
- B. *RECREATIONAL UNIT*: A tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A recreational unit includes the following:
 - 1) Travel trailer, which is a vehicular portable structure, mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use.
 - 2) Camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping or travel use.
 - 3) Motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping or travel use.
 - 4) Truck camper, which is a portable structure designed to provide temporary living quarters for recreational, camping or travel use.
 - 5) Tents, a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for outdoor camping.

Section 3. - LIBERAL INTERPRETATION.

This ordinance shall be liberally interpreted to apply, to regulate or control the uses set forth herein.

Section 4. - ZONING.

No campground shall be constructed or operated except on property zoned agricultural.

Section 5. - LICENSE.

No campground shall operate unless it has a valid license issued by the township under the terms and provisions of this ordinance and any state or county licenses, township ordinances or permits which may be required by law. Including Act 171 of Public Acts of 1970, being Section 325.653, et seq.

Section 6. - TOWNSHIP LICENSE, DURATION AND FEES.

Before beginning operation, the owner or operator of a proposed campground shall make application to the Township Clerk and pay a fee of \$1.00 per site per year. The Township Board shall determine according to the guidelines set forth herein, whether the proposed campground meets the regulations and requirements set forth herein. The Township Board may issue the campground license or deny the application. A campground license shall be in effect for a one year period and must be renewed each year pursuant to this ordinance and by application and payment of all fees.

Section 7. - INSPECTION AND APPROVAL.

With the application for a new campground license, the applicant shall submit site and development plans to the Township Board or its authorized designated representative.

Section 8. - REQUIREMENTS FOR A TOWNSHIP CAMPGROUND LICENSE.

A campground application shall not be approved unless the following requirements are met:

- A. Possession of all required state, county or township licenses or permits, including, but not limited to those found in Act No. 171 of the Public Acts of 1970, being Section 325.653, et seq.
- B. There shall be one camping unit per site and limit of one family or four unrelated persons per site.
- C. Each campground must have central sanitary disposal facilities for the disposal of all sewage generated on the campground in conformance with State of Michigan and/or the Van Buren County Department of Human Services regulations or requirements.
- D. Proper waste and trash storage and removal facilities.
- E. Each site shall be a minimum of 1,200 square feet with a minimum road frontage of thirty feet with or access to a public road or highway to allow access by emergency vehicles and equipment.
- F. Proper and adequate drinking and cooking water systems.
- G. There shall be no permanent residents located in any campground. A person(s) shall be deemed a permanent resident if he or she occupies a recreational unit, travel trailer, camping trailer, motor home, travel camper or ten more than 200 days per calendar year.
- H. All recreational units, travel trailers, camping trailers, motor homes, travel campers or tents shall be self contained without necessity for sewer or water hook up.
- I. No excessive, loud or offensive noise or nuisance shall take place between the hours of 10:00 p. m. and 6:00 a.m.
- J. Boundaries, as defined in the campground site plan shall be conspicuously and permanently marked with no trespassing signs and fencing or shrubbery shall restrict and permanently marked with no trespassing signs and fencing or shrubbery shall restrict camper movement off of the camping property. Any areas defined as wetlands shall be adequately fenced, buffered or otherwise restricted as to human use, protecting such wetlands and refuge areas from human encroachment.
- K. There shall be no motorized off road conveyances, including, but not limited to, three wheeled all terrain vehicles, dirt bikes, four wheeled all terrain vehicles and trail bikes allowed in any campground.
- L. There shall be resident supervision whenever the campground is occupied.

Section 9. - RELATED ACTIVITIES PERMITTED.

All activities directly relating to recreational or camping use may be permitted. The sale of food, merchandise and/or products directly related to the needs of campground occupants only, may also be permitted. Rental of sporting and/or camping equipment may also be permitted. No sale of alcohol will be permitted.

Section 10. - EXCEPTIONS.

This ordinance shall not apply to campgrounds used solely as a children's camp licensed by the Department of Social Services or to properties owned by individuals or corporations licensed pursuant to Act No. 289 of the Public Acts of 1965, being Section 286.621 et seq., of the Compiled Laws of 1948, or for property used for seasonal housing of agricultural workers. This section shall not be construed as to limit or in any way interfere with the enforcement of state laws or county officers having jurisdiction.

Section 11. - RENEWAL OF LICENSE.

Upon expiration of a township campground license and request for renewal, the Township Board may renew the license provided that the requirements of this ordinance have been met and that there has been no violation of any law or ordinance by the licensee during the previous year or any change in the number of campsites or access roads.

- A. Any change or enlargement from original site plan shall come before the Township Board for approval at the time of license renewal.

Section 12. - SUSPENSION AND/OR REVOCATION OF LICENSE.

After public hearing, the Township Board, in its sole discretion, may temporarily suspend and/or revoke a campground license issued upon finding of one or more of the following:

- A. Violation of any State Law, County Ordinance or Township Ordinance or condition of the State or Township campground license.
- B. Permitting activities on the premises which constitute a health hazard including, but not limited to, outdoor urination or defecation, dumping of sewage or waste materials on the property and/or placing trash or rubbish onto the property outside of enclosed containers or bins.
- C. Excessive, loud or offensive noise or music.

Section 13. - FIRES AND FIREFIGHTING EQUIPMENT.

Before approval or renewal of a campground license, the campground shall be inspected by a representative of the local Fire Department to insure adequate emergency firefighting equipment and space to allow for the proper sighting of any fires on the premises. Camp fires may be permitted upon such restrictions and/or requirements as may be established by the inspecting representative of the local Fire Department.

Section 14. - INSPECTION.

As a condition for a township campground license, the owner and/or operator of the campground does hereby grant permission to representatives of the township, including but not limited to the Township Supervisor, the Building Inspector, representatives of the local Fire Department, representatives of the Van Buren County Human Services Department and any and all other appropriate representatives to inspect the campground and its facilities at any and all reasonable times and without notice. Refusal to allow inspection shall result in automatic suspension of the campground license.

Section 15. - PROVISIONS OF ORDINANCE AND MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

Section 16. - COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person must file a written complaint, and such a complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator, who shall record properly such complaint, investigate and take action thereon as provided by this ordinance, and make an answer to the complaint.

Section 17. - PENALTIES FOR VIOLATIONS.

PENALTY Any violation of or any failure to comply with the provisions of this Ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 90 days or both. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section provided no person shall be imprisoned for a single but continuing violation of this Ordinance for a period of longer than 90 days.

Section 18. - ABATEMENT OF NUISANCE.

In addition to the criminal sanctions herein provided, the Porter Township Board, after resolution duly adopted, shall have the authority to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

Section 19. - COST RECOVERY.

In addition to any and all remedies set forth in Porter Township Ordinances, the Township may request the cost of prosecution, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

Section 20. - SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

APPENDIX E. - RIPARIAN WATERFRONT LOT USE REGULATIONS KEYHOLE OR FUNNEL WATERFRONT ACCESS

Section 1. - INTENT.

It is the intent of this section to promote the integrity of the lakes within Porter Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes by discouraging excess uses; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing manmade adjustments to the established shorelines. Nothing in this ordinance shall be constructed 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.

Section 2. - REGULATIONS.

In any zoning district where a parcel of land is contiguous to a lake, such parcel of land may be used as access property or as common open space held in common by a subdivision, association, or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed covenants or restrictions of record; or owned by two or more dwelling units located away from the waterfront, only if the following conditions are met:

- A. That said parcel of land contain a minimum of 7,000 square feet; fifty (50) lineal feet of water frontage for each individual dwelling unit or each single family unit to which such privileges are extended or dedicated. The minimum depth for such a parcel shall be one hundred forty (140) feet. No access property so created shall have less than two hundred (200) feet of water frontage with at least fifty (50) lineal feet of water frontage for each individual dwelling unit frontage shall be measured by a straight line which intersects each side lot line at the water's edge.
- B. That in no event shall water frontage of such parcel of land consist of a swamp, marsh or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS map, or have otherwise been determined to be wetland by the Michigan DNR; and that in no event shall a swamp, marsh or bog be altered by dredging, the addition of earth or fill material or by the drainage of water frontage required by this regulation.
- C. That in no event shall such parcel of land abut a manmade canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
- D. That access property, as provided for in and meeting the conditions of this ordinance, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s) or for any commercial or business use.
- E. That piers or docks on such access property shall not be closer than fifty (50) feet from another pier or dock, nor longer than 120% of the average of the four (4) adjacent residential lot piers or docks on either side of the access property to a maximum length of fifty (50) feet.
- F. The maximum number of boats which can be stored in any manner on land or in the water on access property is limited to two (2) per fifty (50) feet of lot frontage.

Section 3. - NONCONFORMING USES.

In any district in which accesses have been established before the effective date of this ordinance or subsequent amendment thereto, such access shall retain historic uses. It is the intent of this ordinance to permit such lawful nonconformance to continue, but not to encourage additional uses and sites.

Section 4. - SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

Section 5. - DEFINITIONS.

"ACCESS PROPERTY" shall mean a property, parcel or lot abutting a lake and used or intended to be used, for providing access to a lake by pedestrian or vehicular traffic to and from offshore land regardless of whether said access to the water is gained by easement, common fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.

Section 6. - PROVISIONS OF ORDINANCE AND MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

Section 7. - COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person must file a written complaint, and such a complaint shall state fully the causes and basis thereof and shall be filed with the

Zoning Administrator, who shall record properly such complaint, investigate and take action thereon as provided by this ordinance, and make an answer to the complaint.

Section 8. - PENALTIES FOR VIOLATIONS.

PENALTY. Any violation of or any failure to comply with the provisions of this Ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 90 days or both. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section provided no person shall be imprisoned for a single but continuing violation of this Ordinance for a period of longer than 90 days.

Section 9. - ABATEMENT OF NUISANCE.

In addition to the criminal sanctions herein provided, the Porter Township Board, after resolution duly adopted, shall have the authority to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

Section 10. - COST RECOVERY.

In addition to any and all remedies set forth in Porter Township Ordinances, the Township may request the cost of prosecution, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

Section 11. - SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

APPENDIX F. - PORTER TOWNSHIP RUMMAGE SALE ORDINANCE

THE TOWNSHIP OF PORTER HEREBY ORDAINS:

Section 1. - TITLE.

This Ordinance shall be known and cited as the "Porter Township Rummage Sale Ordinance."

Section 2. - SCOPE.

All rummage, garage, carport, yard sales or similar sales shall be subject to the requirements and restrictions of this Ordinance.

Section 3. - PERMIT FEES.

A permit under this Section shall be issued only upon receipt of an application made to the Township Clerk and a fee of \$2.00.

Section 4. - PERMIT REQUIRED; LIMITATIONS.

A permit shall be obtained from the Township Clerk for any sale under this Ordinance. No more than two (2) permits shall be issued to the same person or for the same location in any 12-month period.

Section 5. - ADVERTISING SIGNS.

There shall be only one (1) advertising sign which shall not exceed six (6) square feet in area. Sign shall be located on the property where the sale is conducted, and no sign shall be located within a public street or right-of-way. Any advertising sign erected pursuant to this Ordinance may be erected no more than seven (7) days prior to the sale date, and must be removed no later than the date immediately following the last sale date.

Section 6. - LOCATION.

All sales shall be confined primarily to a covered carport, garage building, or enclosed structure; if no structure is available to the property owner, then all sales must be confined to a clearly delineated area not to exceed 6,000 square feet.

Section 7. - DURATION OF SALE.

No sale shall be conducted for a period greater than three (3) consecutive days.

Section 8. - EXEMPTED SALES.

Rummage sales by established churches, lake associations, 4-H groups, Grange associations, or established civic or nonprofit association, etc., are excluded from this ordinance.

Section 9. - PROVISIONS OF ORDINANCE AND MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other lawfully adopted rule, regulation or ordinance, the most restrictive or that imposing the higher standards shall govern.

Section 10. - COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person must file a written complaint, and such a complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator, who shall record properly such complaint, investigate and take action thereon as provided by this ordinance, and make an answer to the complaint.

Section 11. - PENALTIES FOR VIOLATIONS.

PENALTY. Any violation of or any failure to comply with the provisions of this Ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 90 days or both. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section provided no person shall be imprisoned for a single but continuing violation of this Ordinance for a period of longer than 90 days.

Section 12. - ABATEMENT OF NUISANCE.

In addition to the criminal sanctions herein provided, the Porter Township Board, after resolution duly adopted, shall have the authority to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

Section 13. - COST RECOVERY.

In addition to any and all remedies set forth in Porter Township Ordinances, the Township may request the cost of prosecution, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

Section 14. - SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

APPENDIX G. - PORTER TOWNSHIP ANTI-BLIGHT ORDINANCE

THE TOWNSHIP OF PORTER HEREBY ORDAINS:

Section 1. - NAME.

This ordinance shall be known as the Porter Township Anti-Blight Ordinance.

Section 2. - PURPOSE.

It is the purpose of this ordinance to reduce and eliminate blight which exists now and in the future, to promote the public health, safety and welfare and protect the environment.

Section 3. - DEFINITION OF BLIGHT OR BLIGHTING FACTORS—PROHIBITION AGAINST.

It is hereby determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods. On and after the effective date of this ordinance, or any amendments, no person, firm or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the Township of Porter owned, leased, rented or occupied by such person, firm, partnership, corporation, or other entity.

- A. In any area, for a 30-day period of time or longer, the outside storage or the accumulation of junk, trash, metal, wood, cement and rubbish or refuse of any kind, except domestic refuse stored in such manner as not to create a nuisance is prohibited. The term "junk" shall include parts of machinery or motor vehicles, used stoves or other appliances stored in the open, remnants of wood, metal or any other material or other cast off material of any kind whether or not the same could be put to reasonable use. Outside storage is defined as items not enclosed in a permanent building or structure.
- B. In any area the existence of any structure or part of structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable, as a dwelling, nor useful for any purpose for which it may have been intended.
- C. In any area, the existence of any vacant dwelling, garage or other out-building not kept securely locked, windows kept glazed, or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.
- D. In any area the existence of any partially completed structure, unless such structure is in the course of construction in accordance with a valid building permit issued by the township and unless such construction is completed according to a valid building permit.
- E. The storage, parking or permitting to be stored or parked outside of a fully enclosed building or structure any unused, dilapidated, unlicensed or disassembled motor vehicle, any type of recreational vehicle, road tractor, trailer or semitrailer, unless a special use permit has been issued by the Township. A junk, unused, dilapidated, unlicensed or disassembled motor vehicle,

any type of recreational vehicle, road tractor, trailer or semitrailer is defined as a blighting factor if it has been unassembled, unlicensed, or inoperable for more than six (6) months.

Section 4. - EXCEPTION.

- A. *Commercial or Industrial Zone*: Limited outside storage of working, motor vehicles or service vehicles, boats, etc., awaiting repair or seasonal use, may be allowed on a temporary 6-month period as long as such items are stored in a neat and orderly manner and are screened by an opaque or solid enclosure.
- B. *Agricultural Zones*: Usable farm equipment, motor vehicles, and other similar equipment used exclusively and specially for farming, located on an active farming operation, shall be exempt provided such equipment is stored in a neat and orderly manner and stored in a place other than along the frontage on a street or road.

Section 5. - NUISANCE PER SE.

Any blight or blighting factor as herein defined is declared to be a nuisance per se.

Section 6. - PROVISIONS OF ORDINANCE AND MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

Section 7. - COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person must file a written complaint, and such a complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator, who shall record properly such complaint, investigate and take action thereon as provided by this ordinance, and make an answer to the complaint.

Section 8. - PENALTIES FOR VIOLATIONS.

Any person, firm, association, partnership, or corporation that violates any of the provisions of this Ordinance or fails or refuses to abide by and [any] Order entered under this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fee
1st Offense	\$125.00	\$250.00
2nd Offense*	275.00	550.00
3rd Offense*	350.00	700.00
4th or More Offense*	500.00	1,000.00

;rn0;9;* within 3-year period determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Porter Township has incurred in connection with the municipal civil infraction. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, compliance order or other appropriate remedy to compel compliance with this ordinance. Each day that a violation of this ordinance exists shall constitute a separate violation of this ordinance.

(Amend. eff. Jan. 10, 2014)

Section 9. - ABATEMENT OF NUISANCE.

In addition to the criminal sanctions herein provided, the Porter Township Board, after resolution duly adopted, shall have the authority to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

Section 10. - COST RECOVERY.

In addition to any and all remedies set forth in Porter Township Ordinances, the Township may request the cost of prosecution, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

Section 11. - SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

APPENDIX H. - AN ORDINANCE REGULATING OUTDOOR ASSEMBLIES

The Townships of South Haven, Bloomingdale, Pine Grove, Covert, Bangor, Arlington, Waverly, Alma, Lawrence, Paw Paw, Antwerp, Keeler, Hamilton, Decatur and Porter hereby Ordain that the interest of the public health, safety and welfare of the citizens of the Townships require the regulation, licensing and control of large numbers of people in outdoor assemblies of more than 5,000 persons in attendance, excessively drawing upon the health, sanitation, fire, police, transportation, utility and other public service regularly provided in the townships.

Section 1. - EXCEPTIONS TO ORDINANCE.

The following events are specifically excluded from this ordinance:

- A) An event which is conducted or sponsored by a governmental unit or agency upon public property.
- B) Any event held entirely within the confines of a permanent or enclosed and covered structure.

Section 2. - DEFINITIONS.

- A) *PERSON* means any natural person, partnership, corporation, association or organization.
- B) *SPONSOR* means any person who organizes, promotes, conducts or causes to be conducted, an outdoor assembly.
- C) *ATTENDANT* means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of payment of money for admission.

D) *LICENSEE* means any person to whom a license is issued pursuant to this ordinance.

Section 3. - LICENSING.

A person shall not sponsor, operate, maintain or conduct or promote an outdoor assembly in these townships, unless he shall have first made application for and obtained as hereinafter prescribed, a license for each such assembly, along with a non-refundable fee of \$100.00.

The application for license to conduct an outdoor assembly must be made in writing at least sixty (60) days prior to date of proposed assembly on such forms and in such manner as prescribed by the Clerk of the townships.

The application shall include at least the following information:

- A) Name, age, residence and mailing address of the person making the application (or in the case of a partnership, corporation, or other association, information shall be included as to partners, officers, directors, and/or members of the association. Where the person is a corporation, a copy of the Articles of the Incorporation shall be filed and the names and address of all shareholders having a financial interest greater than \$500.00 shall be provided).
- B) A statement of the kind, character and type of proposed assembly.
- C) The address, legal description and proof of ownership of the site on which the proposed assembly is to be conducted. (Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.)
- D) The date or dates and hours the proposed assembly is to be conducted.
- E) An estimate of the maximum number of attendance expected at the assembly for each date it is conducted.
- F) A detailed showing, explanation and demonstration that the proposed licensee can and will meet each and every requirement set forth under Section 7, entitled, Regulations and control after issuance of license.

Section 4. - ISSUANCE OF LICENSE.

On receipt by the Clerk, copies of the application shall be forwarded to the Chief Law Enforcement and Health Officers for the township and county, the State Fire Marshall, and to such other appropriate officials as the Clerk deems necessary. Such officer and officials shall review and investigate matters relevant to the application and within twenty days of receipt therefore shall report their findings and recommendations to the Township Board. Within thirty days of the filing of the application, the Township Board shall issue set conditions prerequisite to the issuance of, or deny a license. The Township Board may require that adequate security or insurance be provided before a license is issued. Issuance of a license, or where a license is denied, within five days of such action, notice thereof must be mailed to the applicant by certified mail and in the case of denial, the reason therefor shall be stated in the notice.

Section 5. - BASIS OF LICENSE DENIAL.

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

Section 6. - LICENSE.

A license shall specify the name and address of the licensee, the kind and location of assembly and the duration of the license and any other conditions imposed pursuant to this ordinance. It shall be posted in a

conspicuous place upon the premises of the assembly and shall not be transferred to any other person or location.

Section 7. - REGULATIONS AND CONTROL AFTER ISSUANCE OF LICENSE.

- A) *SECURITY PERSONNEL*. The licensee shall employ at his own expense, such security personnel as are necessary and sufficient to provide for the adequate security protection of the maximum number of attendants at the assembly and for the preservation of order, protection of property in and around the assembly.
- B) *WATER AND WASTE FACILITIES*. The licensee shall provide potable water as approved by a County Health officer of sufficient quantity and pressure to assure proper operation of all water using facilities under conditions of peak demand. The number and type of facilities required shall be determined on the basis of the number of attendants in the following manner: toilets and lavatories at a ratio of one to every 200 attendants; drinking fountains, one to every 500 attendants; taps or faucets one to every 500 attendants. Where the assembly is to continue for more than twelve hours, the licensee shall provide shower facilities on the basis of the number of attendants at a ratio of one to 100. All facilities shall be installed, connected and maintained free from obstructions, leaks and defects, and shall at all times be in operable condition as determined by the County Health Officer. (Public Bathing Beaches shall be provided or made available or accessible only in accordance with Act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable provision of state or local law. Public swimming pools shall be made available in accordance with Act 230, Public Acts of 1963 and the rules and regulations adopted pursuant thereto and in accordance with any other applicable provisions of state or local law.)
- C) *LIQUID AND SOLID WASTE DISPOSAL*. The licensee shall provide proper liquid and solid waste disposal as to neither create nor cause a nuisance or menace to the public health as determined by the County Health Department.
- D) *FOOD SERVICES*. If food is made available on the premises, it shall be delivered only through concessions licenses to operate in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto and in accordance with any applicable state or local law.
- E) *MEDICAL FACILITIES*. Each assembly must have medical services available in a suitable building. The nature and extent of such service will be determined by the County Health Department.
- F) *ACCESS AND TRAFFIC CONTROL, PARKING, CAMPING AND TRAILER PARKING*. Access, traffic control and parking shall be provided to insure proper ingress, egress, orderly flow of traffic and orderly parking of vehicles brought to the assembly. Traffic lanes and other spaces shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the director of the Department of State Police, Director of the Department of State Highway must approve the plans for access and traffic control. As to parking, the licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall it provide less than one automobile space for every four attendants. The licensee shall provide electrical illumination of all occupied areas sufficient to assure the safety and comfort of all attendants.
- G) *SOUND PRODUCING EQUIPMENT*, including, but not limited to, public address systems, radios, phonographs, musical instruments and other sound producing devices shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the township.
- H) *INSURANCE*. Before the issuance of a license, the licensee shall obtain liability insurance with bodily injury limits of not less than \$300,000.00 and property damage limits of not less than \$50,000.00 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons or damage

to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the Clerk of the Township in writing at least ten days before the expiration or cancellation of said insurance.

- I) *BONDING*. Before the issuance of a license the licensee shall obtain from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000.00 in a form to be approved by the Township Board, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this ordinance and all applicable provisions of state or local law, and which shall indemnify the township, its agent, officers and employees and the board against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash or other waste resultant from the assembly.
- J) *FIRE PROTECTION*. The licensee shall at his own expense, take adequate steps as determined by the state fire marshal, to insure fire protection.
- K) *FENCING*. The licensee shall erect a fence, completely enclosing the site of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.
- L) *MISCELLANEOUS*. Prior to the issuance of a license, the Township Board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare and property attendants or of citizens of the township.

Section 8. - REVOCATION.

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

Section 9. - PROVISIONS OF ORDINANCE AND MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

Section 10. - COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person must file a written complaint, and such a complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator, who shall record properly such complaint, investigate and take action thereon as provided by this ordinance, and make an answer to the complaint.

Section 11. - PENALTIES FOR VIOLATIONS.

PENALTY: Any violation of or any failure to comply with the provisions of this Ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 90 days or both. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section provided no person shall be imprisoned for a single but continuing violation of this Ordinance for a period of longer than 90 days.

Section 12. - ABATEMENT OF NUISANCE.

In addition to the criminal sanctions herein provided, the Porter Township Board, after resolution duly adopted, shall have the authority to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

Section 13. - COST RECOVERY.

In addition to any and all remedies set forth in Porter Township Ordinances, the Township may request the cost of prosecution, the cost of recovery, and the cost of removal shall become a special assessment on the property upon which is the subject matter of the action.

Section 14. - SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.